



# भारत का राजपत्र The Gazette of India

असाधारण

EXTRAORDINARY

भाग II — खण्ड 2

PART II — Section 2

प्राधिकार से प्रकाशित

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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।  
Separate paging is given to this Part in order that it may be filed as a separate compilation.

## LOK SABHA

The following Bills were introduced in the Lok Sabha on 11th March, 2005:—

### BILL No. 67 OF 2004

*A Bill to provide for population control and for matters connected therewith.*

BE it enacted by Parliament in the Fifty-fifth Year of the Republic of India as follows:—

1. (1) This Act may be called the Population Control Act, 2004.

(2) It extends to the whole of India except the State of Jammu & Kashmir.

(3) It shall come into force on such date, as the Central Government may, by notification in the Official Gazette, appoint.

2. In this Act, unless the context otherwise requires "appropriate Government" means in the case of a State, the Government of the State and in other cases, the Central Government.

3. It shall be duty of the Central Government to encourage, promote and motivate married couples to opt for small family norm with a view to controlling the rising population in the country.

Short title,  
extent and  
commencement.

Definitions.

Central  
Government  
to encourage,  
promote and  
motivate small  
family norm.

Benefits to couples who opt to undergo sterilization

**4. If either the husband or the wife in case of a married couple, who have only two living children on the date of commencement of this Act, voluntarily undergoes sterilization, the appropriate Government shall provide them with the following benefits, namely:—**

- (i) free education including higher education to one child and to the second child, if any, born within one year from the date of commencement of this Act;**
- (ii) suitable employment to one child after he completes his education; and**
- (iii) such other benefits as may be prescribed by rules to be made under this Act.**

Compulsory subject relating to population control in educational institutions.

**5. The appropriate Government shall introduce a compulsory subject relating to population control in all educational institutions for all children who have attained the age of fifteen years, irrespective of class, in which they are studying and the course they are pursuing.**

Minimum age for marriage

**6. No marriage shall be solemnized between a male who is less than twenty seven years of age and a female who is less than twenty two years of age.**

Provisions relating to Government employees, etc

**7. (1) Any person who is serving in connection with the affairs of the Union Government or of the State Government or in any undertaking or organization under the control of the Central Government or the State Government, as the case may be, and who has only one living child or who has not procreated any child or who is unmarried on the date of commencement of this Act, shall give an undertaking that he shall not procreate more than two living children.**

**(2) Any person violating the provisions of sub-section (1) shall be subject to such disciplinary action as may be determined by the appropriate Government.**

Punishment.

**8. Any person who contravenes the provisions of section 6 of this Act shall be punished with simple imprisonment for a term which shall be not less than five years and with fine which shall be not less than rupees twenty thousand.**

Act to have over-riding effect.

**9. The provisions of this Act shall have effect notwithstanding anything contained to the contrary in any other law for the time being in force.**

Power to make rules

**10. The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Act.**

### STATEMENT OF OBJECTS AND REASONS

Rapid increase in the population has given rise to many socio-economic problems like poverty, food and housing shortage, unemployment, environmental degradation, etc. We are the most populous country after China. If the present trend continues, it will not be possible for us to tackle the growing socio-economic problems. It is, therefore, imperative that certain effective steps should be taken to check the increasing growth of our population. Since our resources are limited, proper upbringing of children is possible only when we opt for small family norm. Despite existence of various birth control measures and various family planning programmes, the problem of over population still remains.

The Bill, therefore, seeks to promote sterilization voluntarily among the married couples having two children and also provides for certain measures like fixing the minimum age for marriages, promoting small family norm, introduction of subject of population control in the school curricula for promoting and inculcating small family norm in the future generation.

Hence this Bill,

NEW DELHI,  
July 9, 2004.

R. SAMBASIVA RAO

### PRESIDENT'S RECOMMENDATION UNDER ARTICLE 117(3) OF THE CONSTITUTION

[Copy of D.O. No. H. 11018/1/2004-Ply, dated 20 August, 2004 from Dr. Anbumani Ramadoss, Minister of Health and Family Welfare to the Secretary-General, Lok Sabha].

The President, having been informed of the subject matter of the Population Control Bill, 2004 by Shri R. Sambasiva Rao, M.P., recommends the consideration of the Bill in Lok Sabha under article 117(3) of the Constitution.

### FINANCIAL MEMORANDUM

Clause 4 of the Bill provides for certain benefits to be given to those persons who undergo sterilization voluntarily. Clause 5 provides for introduction of a compulsory subject relating to population control in all educational institutions. The Central Government shall have to incur some expenditure for implementing the provisions of this Bill in respect of Union territories. The State Governments will incur expenditure in respect of their States out of their respective consolidated funds. The Bill, therefore, will involve an annual recurring expenditure of about rupees one hundred crore every year from the Consolidated Fund of India.

No non-recurring expenditure is likely to be involved.

### MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 10 of the Bill empowers the Central Government to make rules for carrying out the provisions of the Bill. As the rules to be made relate to matters of detail only, the delegation of legislative power is of a normal character.

## BILL NO. 66 OF 2004

*A Bill further to amend the Constitution of India*

BE it enacted by Parliament in the Fifty-fifth Year of the Republic of India as follows:—

Short title.

1. This Act may be called the Constitution (Amendment) Act, 2004.

Amendment  
of article 80.

2. In article 80 of the Constitution, in clause (1), after sub-clause (b), the following proviso shall be added, namely:—

"Provided that Parliament may, by law, provide that one-third of the total number of seats to be filled under sub-clauses (a) and (b) be reserved for women."

Amendment  
of article 81.

3. In article 81 of the Constitution, in clause (1), after sub-clause (b), the following proviso shall be added, namely:—

"Provided that Parliament may, by law, provide that one-third of the total number of seats to be filled by direct election from each State or Union territory shall be reserved for women and such seats may be allotted by rotation to different territorial constituencies."

4. In article 170 of the Constitution, in clause (1), the following proviso shall be added at the end, namely:—

Amendment of  
article 170.

"Provided that Parliament may, by law, provide that one-third of the total number of seats be reserved for women and such seats may be allotted by rotation to different territorial constituencies of the State."

5. In article 171 of the Constitution, after clause (4), the following clause shall be inserted, namely:—

Amendment of  
article 171.

"(4A) Notwithstanding anything in this article, Parliament may, by law, provide that one-third of the total number of seats to be filled under sub-clauses (a), (b), (c), (d) and (e), respectively, of clause (3) shall be reserved for women."

**STATEMENT OF OBJECTS AND REASONS**

For a veritable development and progress of Indian society, it is imperative that women play a well-pronounced decision making role in the polity. Only then we will be able to make desired progress in various fields including eradication of illiteracy, combating population explosion and poverty alleviation.

Initiative to provide for reservation of seats for women to the extent of one-third of the total membership of Local self Government institutions has had a salutary effect in many ways. In view of that experience, it is desirable and necessary that reservation for women is provided in the Constitution of India in case of State Legislatures and the two Houses of Parliament.

Hence this Bill.

NEW DELHI;  
July 29, 2004.

PAWAN KUMAR BANSAL

## BILL NO. 19 OF 2005

*A Bill to provide for the provision of identification marks on the security papers and for prevention of their forgery and make provisions incidental or consequential thereto.*

BE it enacted by Parliament in the Fifty-sixth Year of the Republic of India as follows:—

1. (1) This Act may be called the Provision of Identification Marks on Security Papers Act, 2005.

Short title,  
extent and  
commencement.

(2) It extends to the whole of India.

(3) It shall come into force at once.

2. In this Act, unless the context requires,—

Definitions.

(i) 'appropriate Government' means the Central Government or a State Government, as the case may be;

(ii) 'Security papers' means,—

(a) Bank guarantees including letter of credits and certificates of authority;

(b) Bank instruments including cheques, drafts, pay orders or any other such instrument;

(c) currency notes of all denominations;

(d) educational degrees, diploma certificates and mark sheets issued by the Universities, Deemed Universities and professional institutions;

(e) insurance cover notes of all varieties;

(f) invoices of vehicles and consumer durables where Banks and Financial Institutions are involved;

(g) Property Deeds and Deed of Titles including Wills;

(h) Sales Tax Registration Forms and Excise Tax documents including challans and Way Bills;

(i) tickets for railway journeys issued by the various railway authorities; and

(j) such other documents as may be specified by the Government of India from time to time.

Provisions to give effective identification of security papers.

**3. It shall be mandatory for the appropriate Government to provide for effective identification of security papers so as to prevent forgery and imitation of such papers and to make them fool proof to prevent their duplication.**

Directions to be issued to all agencies for implementing the provisions of this Act.

**4. (1) The appropriate Government shall issue directions to all agencies concerned, to comply with the provisions of section 3.**

**(2) Any person who does not comply with the directions issued under subsection (1) shall be punished with imprisonment for a term which may extend to ten years and with fine which may extend to rupees fifty thousand.**

**(3) No institute, authority, organisation or an individual who incurs losses due to its failure to take sufficient steps to check forgery of security papers shall make any claim for compensation of the loss suffered or file a suit in any court of law for the recovery of loss.**

Act to have over-riding effect.

**5. The provisions of this Act shall have effect notwithstanding anything contrary contained in any other law for the time being in force.**

Power to make rules.

**6. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Act.**

**(2) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament.**



### STATEMENT OF OBJECTS AND REASONS

The problem of forgery and fake duplication of various documents including currency notes has, of late, assumed menacing proportions. Revenue loss incurred by the Government as a result of the infamous stamp paper scam is estimated to be in the range of rupees thirty thousand to fifty thousand crore. But this is merely a tip of the iceberg. If we include the forgery and fraudulent reproduction of currency notes, bank guarantees, letters of credit, forged documents relating to houses, land, vehicles and consumer durable goods for the purpose of obtaining loans and forged railway tickets to quote, just a few, the amount involved would be an astronomical figure. Unless we take necessary and effective steps in this direction to control effectively this burgeoning menace of such large scale forgery of public documents, we would, before long, be surrounded by scams all over which would not only result in huge loss of revenues to the Government and other public bodies and banks and financial institutions but also lead to a serious erosion of the credibility of the Government in ensuring effective governance. Keeping this serious position in view, it is proposed to bring forward a legislation which would make it mandatory for all concerned institutions to take necessary and sufficiently effective and preventive steps to ensure that their documents are fraud-resistant and are incapable of being replicated for fraudulent purpose.

The proposed Bill seeks to achieve this objective.

NEW DELHI;  
November 18, 2004.

S.P.Y. REDDY

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### FINANCIAL MEMORANDUM

Clause 3 of the Bill provides that it shall be mandatory for the appropriate Government to provide effective identification of security papers to prevent forgery and imitation of such papers. The Bill, therefore, if enacted, will involve expenditure from the Consolidated Fund of India to establish the methods to give effective identification to security papers. As far as State Governments are concerned, the expenditure will be met from the Consolidated Funds of the respective States. It is estimated that a recurring expenditure to the tune of rupees one hundred crore is likely to be incurred per annum.

A non-recurring expenditure of about rupees two hundred crore is also likely to be involved.

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### MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 6 of the Bill provides that the Central Government may, make rules to give effect to the provisions of the Bill. As the rules will relate to matters of detail only, the delegation of legislative power is of a normal character.

**BILL NO. 2 OF 2005**

*A Bill further to amend the Constitution of India.*

BE it enacted by Parliament in the Fifty-sixth Year of the Republic of India as follows:—

Short title.

1. This Act may be called the Constitution (Amendment) Act, 2005.

Insertion of  
new article  
25A.

2. After article 25 of the Constitution, the following article shall be inserted, namely:—

Ban on  
conversion  
of religion.

“25A. (1) No person or institution shall encourage or cause to encourage any person or group of persons to convert religion by way of inducement in any form or by force.

(2) Nothing in this part shall affect the operation of any existing law or prevent the State from making a law to ban conversion of religion:

Provided that the law shall not apply in case a person voluntarily converts to another religion or reconverts to his original religion.”

## STATEMENT OF OBJECTS AND REASONS

Our Constitution ensures to the citizens the fundamental right to religious freedom. However, there is no provision for preventing conversion by force or inducement in our Constitution. The manner in which conversions are being promoted through money sent from abroad on the pretext of education or charity is a danger to the unity and integrity of the country.

Therefore, it is necessary to amend the Constitution with a view to making specific provision regarding banning of conversion through force or inducement in any form.

Hence the Bill.

NEW DELHI;  
*November 18, 2004.*

YOGI ADITYA NATH

## BILL NO. 3 OF 2005

*A Bill further to amend the Constitution of India.*

BE it enacted by Parliament in the Fifty-sixth Year of the Republic of India as follows:—

Short title.

1. This Act may be called the Constitution (Amendment) Act, 2005.

Omission of article 44.

2. Article 44 of the Constitution shall be omitted.

Insertion of new Part IVB.

3. After Part IVA of the Constitution, the following Part and articles thereunder shall be inserted, namely:—

## "PART IVB

## UNIFORM CIVIL LAW

Definition.

51B. In this Part, unless the context otherwise requires, "the State" has the same meaning as in Part III.

Uniform civil code for the citizens.

51C. The State shall secure for the citizens a uniform civil code throughout the territory of India."

## STATEMENT OF OBJECTS AND REASONS

The Constitution makers, while framing the Constitution of India, gave a direction to the Government that they should try to make uniform civil laws for all citizens throughout the country. The intention behind this was that when secularism was the avowed object of the Constitution, there should not be various civil laws based on different religions. Moreover, our country is not a theocratic State. It has no State religion. However, various civil laws in force at present are based on different religions.

As the direction to the Government to make uniform civil law is in the Directive Principles of State Policy, it is not enforceable in any court of law and as such no attempt has been made to bring uniform civil code. To ensure uniformity, equality and social justice, it is imperative that a uniform civil code should be brought at the earliest. The Bill, accordingly, seeks to amend the Constitution.

NEW DELHI;  
November 18, 2004.

YOGI ADITYA NATH

## BILL NO. 4 OF 2005

*A Bill further to amend the Constitution of India.*

BE it enacted by Parliament in the Fifty-sixth Year of the Republic of India as follows:—

Short title.

1. This Act may be called the Constitution (Amendment) Act, 2005.

Amendment  
of article 1.

2. In article 1 of the Constitution, for clause (1), the following clause shall be substituted,  
namely:—

(1) Bharat, that is Hindustan, shall be a Union of States.”.

## STATEMENT OF OBJECTS AND REASONS

The ancient and traditional names of our country are Bharat and Hindustan. These two names were popular during pre-British period. After the establishment of the British rule, Britishers used the name of "India" which was popular in their own country. The framers of the Constitution recognised the ancient name of the country 'Bharat' and gave it its due place in the Constitution. Article 1 of the Constitution provides that "India, that is Bharat, shall be a Union of States". However, due to popularity of the English name, the traditional name of our country 'Hindustan' has been left out.

The Bill seeks to amend the Constitution with a view to changing the nomenclature of our country from "India, that is Bharat" to "Bharat, that is Hindustan". The word "India" denotes the symbol of slavery and thus deserves to be omitted from our Constitution.

The Bill seeks to achieve the above objective.

NEW DELHI;  
November 18, 2004.

YOGI ADITYA NATH

## BILL NO. 12 OF 2005

*A Bill to provide for the setting up of a Council to be called the Central Himalayan States Development Council to formulate development plans and schemes and also to monitor their implementation for the balanced and all-round development of the hilly States comprising the Himalayan region and for matters connected therewith.*

BE it enacted by Parliament in the Fifty-sixth Year of the Republic of India as follows:—

Short title  
and  
commence-  
ment.

1. (1) This Act may be called the Central Himalayan States Development Council Act, 2005.

(2) It shall come into force on such date, as the Central Government may, by notification in the Official Gazette, appoint:

Provided that such date shall not be later than six months from the date of assent of this Act.



2. In this Act, unless the context otherwise requires,—

Definitions.

(a) "Council" means the Central Himalayan States Development Council set up under section 3;

(b) "Himalayan States" means the States of Himachal Pradesh, Jammu and Kashmir and Uttaranchal; and

(c) "prescribed" means prescribed by rules made under this Act.

3. (1) There shall be set up a Council to be called the Central Himalayan States Development Council which shall consist of the following members, namely:—

Setting up of the Central Himalayan States Development Council.

(i) the Chief Minister of each of the Himalayan States:

Provided that if there is no Council of Ministers in any Himalayan State, the President of India may nominate one person to represent such State in the Council for so long as there is no Council of Ministers in such State;

(ii) members of the House of the People and Council of States representing the Himalayan States;

(iii) five persons having special knowledge of an experience in social and economic planning preferably in the hilly areas to be nominated by the President; and

(iv) the Union Minister holding charge of the Department of Planning.

(2) The Chairman of the Council shall be nominated by the President from amongst the Chief Ministers of the Himalayan States in such manner, as may be prescribed.

(3) The Chairman of the Council shall be nominated for a period of two years:

Provided that if there is no Council of Ministers in any Himalayan State thereby causing vacancy in the Office of the Chairman, the President of India may nominate Chief Minister of other Himalayan State as Chairman of the Council so long as there is no Council of Ministers in such State.

4. (1) The Council shall function as a Planning body for the balanced and all-round social and economic development of the Himalayan States.

Functions of the Council.

(2) It shall be the responsibility of the Council to formulate development plans and schemes for each of the Himalayan States and also in which Himalayan States have common interest:

Provided that the Council may, if it considers necessary, having regard to the socio-economic backwardness of the State of Uttaranchal or any area in the State, formulate specific and time bound projects and schemes for the whole State or any area in that State and may review implementation of such projects and schemes.

(3) For securing the balanced development of the Himalayan States the Council shall forward proposals for:—

(i) accelerating the industrial growth in one or more Himalayan States;

(ii) inter-linking various places by railway or roads including remote villages and hilly areas;

(iii) providing communications and telecommunications facilities;

(iv) providing electricity, drinking water and rural housing;

(v) health services including family welfare schemes;

(vi) providing educational facilities and gainful employment; and

(vii) taking of preventive measures to minimize the effect of natural calamities particularly the landslides and cloudbursts to the Central Government and the Government of the Himalayan State concerned for their consideration.

(4) For the purposes of clause (1) of sub-section (3), the Council may recommend to the Central Government such concessions, including waiver of duty of excise, as it deems necessary, for a specific period to industrial units in any Himalayan States.

(5) The Council shall recommend to the Central Government and the Government of each of the Himalayan States as to the action to be taken on any matter referred to in subsections (2) and (3).

Central and State Government to consider the advice of the Council.

5. It shall be the duty of the Central Government and the Government of each of the Himalayan States to give due consideration to the advice of the Council and apprise the Council of its views and decisions on such advice.

Meetings of the Council.

6. (1) The Council shall meet at least thrice in each year.

(2) The proceedings of every meeting of the Council shall be forwarded to the Central Government and also to Government of each of the Himalayan States.

Officers and staff of the Council.

7. (1) The Council shall have a secretarial staff consisting of a Secretary, a Planning Adviser and a Financial Adviser and such other officers and employees as the Central Government may, by order, determine.

(2) The Secretarial staff of the Council shall function under the direction, supervision and control of the Chairman of the Council.

(3) The office of the Council shall be located at such place as may be determined by the Council.

(4) The administrative expenses of the said office, including the salaries and allowances payable to, or in respect of, members of the secretarial staff of the Council, shall be borne by the Central Government out of the moneys provided by Parliament for the purpose.

Provision of funds to the Council.

8. The Central Government shall provide, from time to time, after due appropriation made by Parliament by law, adequate funds to the Council for the implementation of the development plans and schemes formulated by the Council.

Power to make rules.

9. The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Act.

## STATEMENT OF OBJECTS AND REASONS

The development process in the Central Himalayan States of Uttaranchal, Himachal Pradesh and Jammu and Kashmir has been very tardy due to their geographical location and social background. The people living in these States do not have adequate educational facilities and consequently employment opportunities. The people also have to travel to other States for medical treatment as there are no well equipped hospitals and qualified doctors. There has also been negligible growth of industries. There is an urgent need for setting up of environment friendly industries in these States for the development of the States as a whole and to enable the local youth to get employment opportunities. For setting up of new industries special concessions including waiver of excise duty for a specific period should be given to the industries in the States by the Central Government.

The problems of these Himalayan States are interlinked. All these States experience, almost every year, recurrent floods, landslides, cloudburst, etc. thereby causing huge loss of life and property. Basic infrastructure facilities like "Pucca Roads", electricity, communication, schools, drinking water, bridges connecting remote villages with Pucca Roads, etc. have still to be made available to all the people of these regions even after fifty seven years of independence. As these regions share common problems, the solutions to their problems are also common. Many of the developmental works in these States can be carried out only by involvement of all the three States. The State of Uttaranchal, being recently created, needs special attention for its overall development.

It is, therefore, proposed to establish a Central Himalayan States Development Council to look into and accelerate the process of development in these States, particularly in Uttaranchal. A similar Council has been functioning very successfully for the North-Eastern States. The establishment of such a Council for the States of Uttaranchal, Himachal Pradesh and Jammu and Kashmir would not only help in the speedier all-round development of the Himalayan States thereby taking the country high on the growth map but would also act as a coordinating agency amongst the people of the States of the Himalayan region.

Hence this Bill.

NEW DELHI;  
November 18, 2004.

BACHI SINGH RAWAT

### FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for setting up of the Central Himalayan States Development Council consisting of persons having special knowledge of and experience in social and economic planning in the hilly areas. Clause 6 provides that the Council shall meet at least thrice in each year. Clause 7 provides that the Central Government shall bear the administrative expenditure including salaries and allowances of members, officers and staff of the Council. Clause 8 provides that the Central Government shall provide adequate funds to the Council for implementing of the development plans and schemes by way of grants, after due appropriation made by Parliament. The Bill, therefore, if enacted, will involve expenditure from the Consolidated Fund of India. It is estimated that a sum of rupees four hundred crore is likely to be involved as a recurring expenditure per annum.

A sum of rupees four hundred crore is also likely to be involved as non-recurring expenditure.

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### MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 9 of the Bill empowers the Central Government to make rules for carrying out the provisions of the Bill. As the rules to be made relate to matters of detail only, the delegation of legislative power is of a normal character.

## BILL NO. 5 OF 2005

*A Bill to provide for measures to control population in the country and for matters connected therewith.*

BE it enacted by Parliament in the Fifty-sixth Year of the Republic of India as follows:—

1. (1) This Act may be called the Population Control Act, 2005.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. In this Act, unless the context otherwise requires,—

(a) “child” includes an illegitimate child but does not include an adopted child;

(b) “custom” means any usage which has been continuously and uniformly being observed for a long time by the people and which has now acquired the force of law amongst any community in any area, tribe, group or family;

Short title,  
extent and  
commence-  
ment.

Definitions.

(c) "financial institution" means any banking or lending company, corporation, firm or society in which the Central Government holds not less than fifty-one percent. of shares;

(d) "Government company" means any company, corporation or society in which the Central Government holds not less than fifty-one percent. of shares; and

(e) "Government service" means any public service in connection with the affairs of the Central Government and includes service in any civil, defence or all India service of the Union or service in any Government company or local bodies in Union territories.

Small family norm.

3. Any person—

(a) who has two or more than two living children shall not procreate any more child after a period of one year from the date of commencement of this Act; and

(b) who has less than two living children on the date of commencement of this Act, shall not procreate more than two living children.

Insertion of new section 8B in Act No. 43 of 1951.

4. After section 8A of the Representation of the People Act, 1951, the following section shall be inserted, namely: 43 of 1951.

Disqualification on ground of not following small family norm.

"8(B). (1) A person shall be disqualified if he procreates more than two living children:

Provided that the person shall not be disqualified if he, within a period of one year from the date of commencement of the Population Control Act, 2005, procreates another living child and thereby the number of living children of that person increases to more than two.

(2) The disqualification referred to in sub-section (1) shall not apply in case of persons having more than two living children on the date of commencement of the Population Control Act, 2005."

Penalty.

5. Any person who violates the provisions of section 3,—

(a) shall not be given, if such person is in Central Government service, any further increment or promotion during his service;

(b) shall not be allowed to avail of any loan or facility of any kind from any Government agency or financial institution under the control of the Central Government; and

(c) shall not be entitled to the facility of drawing ration from public distribution system and cooking gas from a Government company.

Incentives for adopting small family norm

6. (1) Any person who procreates only one child and gives an undertaking that he shall not procreate another child, shall be—

(a) given preference in Government service;

(b) provided with a house by the Central Government at subsidized cost;

and

(c) given ration items from fair price shops at a reduced price.

(2) Any person, who has been given benefit under sub-section (1), procreates another child, the benefits given to him shall be withdrawn immediately.

7. (1) Every population census taken after the commencement of the Population Control Act, 2005, shall identify the districts and group of persons who have contributed to the increase in the population during the decade.

(2) It shall be the duty of the Central Government to initiate effective measures to check the increase in population in the district, or villages and amongst the group of persons identified in the population census.

Identification of districts, villages and group of persons who have contributed to population growth.

8. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force.

Act to have over-riding effect.

9. The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Act.

Power to make rules.

### STATEMENT OF OBJECTS AND REASONS

Exploding population of the country is one of the major hurdles in the progress of the country. If we can check the increase in population then we can expect to give reasonable standard of living to the people of the country.

Some strong measures are required to check this menace. Some benefits should also be given to the people to encourage them to adopt small family norm.

The Bill provides for some harsh measures for those who do not come forward to help in achieving the goal of population control. Alongside, some benefits are provided to those who adopt the small family norm.

Hence this Bill.

NEW DELHI;  
*November 18, 2004.*

BACHI SINGH RAWAT

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### FINANCIAL MEMORANDUM

Clause 6 of the Bill provides that any person who procreates only one child and gives an undertaking that he shall not procreate another child shall be provided with accommodation at subsidised cost and ration items from fair price shops at reduced price by the Central Government. The Bill, therefore, if enacted, would involve expenditure from the Consolidated Fund of India. It is likely to involve a recurring expenditure of about rupees one hundred crore per annum.

No non-recurring expenditure is likely to be involved.

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### MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 9 of the Bill empowers the Central Government to make rules for carrying out the provisions of the Bill. As the rules to be made relate to matters of detail only, the delegation of legislative power is of a normal character.



**BILL NO. 21 OF 2005**

*A Bill to provide for the setting up of a Bureau of Accountability to suggest measures for rooting out corruption; making the administration efficient and for matters connected therewith.*

BE it enacted by Parliament in the Fifty-sixth Year of the Republic of India as follows:—

1. (1) This Act may be called the Bureau of Accountability Act, 2005.

Short title and  
commencement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. In this Act, unless the context otherwise requires the word 'Bureau' means the Bureau of Accountability established under section 3 of this Act.

Definition.

Establishment  
of a Bureau of  
Accountability.

**3. (1) The Central Government shall establish a Bureau which shall consist of the following:—**

- (i) two serving or retired Judges of the Supreme Court of India;
- (ii) Cabinet Secretary to the Central Government;
- (iii) Home Secretary to the Central Government;
- (iv) Chief of the Intelligence Bureau of India;
- (v) one retired General of the Army to be nominated by the Central Government; and
- (vi) an eminent social and political worker to be nominated by the Central Government.

(2) The members of the Bureau shall have a tenure of five years from the date of their appointment or nomination, as the case may be.

(3) The Bureau shall have its office located in New Delhi.

(4) The Central Government shall appoint such number of officers and staff as it considers necessary for the efficient functioning of the Bureau.

Chairman of  
the Bureau.

4. The members of the Bureau shall elect from amongst themselves a member to preside over the meetings of the Bureau and the member so elected shall be designated as Chairman of the Bureau.

Functions of  
the Bureau.

5. The Bureau shall take steps and suggest measures to the Central Government to—

- (i) accelerate the pace of working in the Ministries of Government of India;
- (ii) make the administration corruption free; and
- (iii) implement the policies framed by the Central Government within the prescribed time period.

Powers of  
Bureau.

6. The members of the Bureau shall carry out surprise inspections of various Ministries and Departments of the Central Government from time to time and suggest measures for carrying out administrative reforms in the functioning of the Ministries.

Procedure to  
be followed by  
the Bureau in  
its  
functioning.

7. (1) The Bureau shall formulate rules for its internal working and the rule so made shall be laid on the Table of each House of Parliament.

(2) If any amendment is made to the rules framed under sub-section (1), the amendment so made shall also be laid on the Table of each House of Parliament.

Power to  
make rules.

8. The Central Government may, by notification in the Official Gazette, make rules to carry out the provisions of this Act.

#### STATEMENT OF OBJECTS AND REASONS

It has been emphasized time and again that unstable bureaucracy is a big hurdle in the development of the country. Some senior officers and their subordinates working in Government offices do not dispose off their official works within particular time period. Many important files remain pending for months in Government Offices which in turn leads to corruption. It is, therefore, necessary that a high powered permanent Bureau should be set up to accelerate the pace of work of bureaucracy and ensure timely completion of work. This will also help in rooting out corruption.

Hence this Bill.

NEW DELHI;  
November 18, 2004.

MOHAN SINGH

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#### FINANCIAL MEMORANDUM

Clause 3 of the Bill provides that the Central Government shall establish a Bureau of Accountability. It further provides that Central Government shall appoint such number of officers and staff as is considered necessary for the efficient functioning of the Bureau. It also provides that the office of the Bureau shall be located in New Delhi. The Bill, therefore, if enacted, would involve expenditure from the Consolidated Fund of India. It is likely to involve a recurring expenditure of rupees one hundred crore per annum. A non-recurring expenditure of about rupees one hundred crore is also likely to be involved.

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#### MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 8 of the Bill empowers the Central Government to make rules for carrying out the purposes of this Bill. The rules will relate to matters of detail only. The delegation of legislative power is, therefore, of a normal character.

## BILL NO. 8 OF 2005

*A Bill further to amend the Constitution of India.*

BE it enacted by Parliament in the Fifty-sixth Year of the Republic of India as follows:—

Short title and  
commencement.

1. (1) This Act may be called the Constitution (Amendment) Act, 2005.

(2) It shall come into force on such date as the Central Government may, by notification in the official gazette, appoint.

Substitution  
of new article  
for article 37.

2. For article 37 of the Constitution, the following article shall be substituted, namely:—

Implementation  
of principles  
contained in  
this part

**“37. The provisions contained in this Part shall be enforceable and it shall be the duty of the State to apply in making laws the principles enunciated in this Part.”.**

### STATEMENT OF OBJECTS AND REASONS

The Directive Principles of State Policy enshrined in the Constitution of India are an important feature. The Directive Principles manifest the welfare character of our Constitution. However, the restriction on their enforceability by the courts denies their implementation. It is the foremost duty of the State to ensure the implementation of Directive Principles. It is, therefore, necessary to make it binding on the State to sincerely implement these Principles.

Hence this Bill.

NEW DELHI;  
November 23, 2004.

MOHAN SINGH

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### FINANCIAL MEMORANDUM

The Bill seeks to make the Directive Principles of the State Policy contained in Part IV of the Constitution enforceable and casting a duty on the State to apply the principles enunciated in this part in making laws. To achieve the objective, jobs have to be created and facilities have to be provided for implementation of the principles contained in Part IV of the Constitution. The Bill, therefore, if enacted will involve expenditure from the Consolidated Fund of India. However, at this stage it is not possible to estimate the exact amount to be incurred from the Consolidated Fund of India.

It is likely that a recurring expenditure to the tune of rupees one thousand crore is likely to be incurred per annum.

A non-recurring expenditure of rupees nine hundred crore is also likely to be incurred.

## BILL NO. 15 OF 2005

*A Bill to provide free and uniform education to all the students from primary level to higher secondary level in the country.*

BE it enacted by Parliament in the Fifty-sixth Year of the Republic of India as follows:—

Short title,  
extent and  
commence-  
ment.

1. (1) This Act may be called the Free and Uniform Education Act, 2005.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the official Gazette, appoint.

Provision of  
this Act to  
apply to all  
the schools.

2. The provisions of this Act shall be applicable to all the schools whether owned by, or receiving aid out of the funds of the appropriate Government or owned or run by private organisations or individuals or societies or by minorities.

3. In this Act, unless the context otherwise requires,—

Definitions.

(a) "appropriate Government" means the Central Government or a State Government, as the case may be;

(b) "uniform education" means education based on an uniform syllabus for each standard in all the schools throughout the country;

(c) "economically weak student" means a student whose parent's income from all sources does not exceed rupees two thousand per month; and

(d) "prescribed" means prescribed by rules made under this Act.

4. It shall be the duty of the appropriate Government to provide free, compulsory and uniform education to every child upto higher secondary level irrespective of his caste, creed or religion.

Free and uniform education to every student.

*Explanation.*— For the purpose of this section, "free education" means and includes:—

(a) provision of breakfast or mid day meal;

(b) supply of uniform, books and writing material free of cost; and

(c) hostel facility for students at higher secondary level.

5. The appropriate Government shall establish and maintain schools in every district according to its population and requirement.

Establishment of schools in every district.

6. The appropriate Government shall provide scholarship of rupees three hundred per month upto primary school level and rupees five hundred per month upto higher secondary level to economically weak students.

Scholarship to economically weak students.

7. The appropriate Government shall not recognize for any purpose, any academic certificate awarded by a school not following uniform pattern of primary and/or higher secondary education under the provisions of this Act.

Certificate not to be recognised.

8. The provisions of this Act shall be in addition to and not in derogation of any provision of any other law for the time being in force.

Act not to be in derogation of other laws.

9. The Central Government may, by notification in the Official Gazette, make rules to carry out the provisions of this Act.

Power to make rules.

## STATEMENT OF OBJECTS AND REASONS

Majority of the children are not able to get good education due to poverty and sometimes they cannot afford even the basic education. On the other hand, children from rich families get very good education and they get lucrative jobs after they complete their education.

As our country is a democratic country, every citizen has equal rights. The education imparted is not uniform in all schools. An education system has to be developed wherein all students, irrespective of their economic status, get uniform education so that all children may enjoy equal opportunity in life. Moreover, education should be provided free of cost so that children belonging to economically weaker section can also get good education. Therefore, it is proposed to provide free and uniform education to all children in the country.

Hence this Bill.

NEW DELHI;  
November 23, 2004.

BRAJESH PATHAK

## FINANCIAL MEMORANDUM

Clause 4 of the Bill provides that the appropriate Government shall provide free, compulsory and uniform education to every child upto higher secondary level. It further provides for some facilities like breakfast/mid day meal, uniform, books, etc. to every student. Clause 5 provides for setting up of adequate schools in every district. Clause 6 provides for scholarship to economically weak students. State Governments have to bear the expenditure in respect of the schools set up in their territories from the Consolidated Fund of the respective States. However, the Central Government has to incur expenditure in respect of schools in Union Territories besides extending financial assistance to State Governments.

The Bill, therefore, if enacted, would involve expenditure from the Consolidated Fund of India. It is likely to involve a recurring expenditure of rupees ten crore per annum. A non-recurring expenditure of about rupees fifteen crore is also likely to be involved.

## MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 9 of the Bill empowers the Central Government to make rules for carrying out the purposes of this Bill. The rules will relate to matters of detail only. The delegation of legislative power is, therefore, of a normal character.



## BILL NO. 1 OF 2005

*A Bill to provide for free and compulsory education to all children upto higher secondary level.*

BE it enacted by Parliament in the Fifty-sixth Year of the Republic of India as follows:—

1. (1) This Act may be called the Free and Compulsory Education Act, 2005.

Short title,  
extent and  
commencement.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. In this Act, unless the context otherwise requires, "appropriate Government" means the State Government in the case of a State and the Central Government in other cases.

Definition.

Free and compulsory education to every child.

**3. The appropriate Government, under the provisions of this Act, shall provide free and compulsory education to every child upto higher secondary level.**

*Explanation:—* For the purpose of this section, "free education" means and includes:—

- (a) fees including admission and tuition fees;
- (b) supply of books and writing materials free of cost;
- (c) free hostel facility, wherever, necessary;
- (d) free uniform; and
- (e) scholarships, in such cases, as may be prescribed.

Provisions of the Act not to be in derogation of any other law for time being in force.

**4. The provisions of this Act shall be in addition to and not in derogation of any other law for the time being in force in this regard.**

Establishment of one school for a population of one thousand.

**5. The appropriate Government shall establish one school in every area having a population of one thousand people.**

Power to make rules.

**6. The Central Government may, by notification in the Official Gazette, make rules to carry out the provisions of this Act.**

### STATEMENT OF OBJECTS AND REASONS

Article 45 of the Constitution provides that it is the responsibility of the State to provide free and compulsory education to all children until they complete the age of fourteen years. Although, the Government has taken many steps in this regard but they are inadequate. We have not been able to provide education to all children even after fifty-seven years of independence. Our education system is very expensive and all citizens cannot afford it. Poor parents with meagre incomes are unable to send their children to school.

Therefore, it is necessary to provide free uniform, textbooks and scholarships to the poor students so that their parents are encouraged to send them to school. Therefore, it is necessary to provide for free and compulsory education upto higher secondary level and for scholarships to meritorious students.

Hence this Bill.

NEW DELHI;  
November 23, 2004.

BRAJESH PATHAK.

### FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for free and compulsory education to all children upto higher secondary level. Clause 5 provides that the appropriate Government shall establish one school each for a population of one thousand. The exact number of schools required for this purpose is not known. The expenditure in respect of the schools being set up in the States will be incurred from the Consolidated Funds of the respective States. The expenditure in respect of the schools being set up in Union territories will be incurred from the Consolidated Fund of India. A recurring expenditure of about rupees fifteen crore per annum is likely to be incurred on it.

A non-recurring expenditure of about rupees twenty five crore is also likely to be incurred.

### MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 6 of the Bill empowers the Central Government to make rules for carrying out the provisions of the Bill. Since the rules will relate to matters of details only, the delegation of legislative power is of a normal character.

## BILL NO. 11 OF 2005

*A Bill further to amend the Constitution of India.*

BE it enacted by Parliament in the Fifty-sixth Year of the Republic of India as follows:—

Short title and  
commence-  
ment.

1. (1) This Act may be called the Constitution (Amendment) Act, 2005.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Amendment of  
article 324.

2. In article 324 of the Constitution, after clause (5), the following clause shall be inserted, namely:—

“(5A) Notwithstanding anything contained in this Constitution, no person who has held the office of the Chief Election Commissioner or an Election Commissioner, as the case may be, shall be eligible for further office either under the Government of India or under the Government of any State after he has ceased to hold his office.”

## STATEMENT OF OBJECTS AND REASONS

Article 324 of the Constitution provides for an independent body in the form of Election Commission for conducting free, fair and impartial elections in the country. Recently, it has been observed that members of Election Commission after they ceased to hold office were appointed on important posts under the Government. Such a step erodes the respect and integrity of the office of the Election Commission in the public eye. In order to ensure neutrality of the office of the Election Commission in its functions and to put a check on this trend of appointment of members of the Election Commission to any political post, it is necessary to amend the Constitution of India.

The Bill seeks to amend the Constitution with a view to disqualifying a person who has served as Chief Election Commissioner or Election Commissioner in the Election Commission from holding any other office under the control of Central Government or State Government.

Hence this Bill.

NEW DELHI;  
November 25, 2004.

MOHAN SINGH.

## BILL NO. 18 OF 2005

*A Bill to provide for reservation in services for the Scheduled Castes and the Scheduled Tribes in establishments under the Central and State Governments and in private sector and for matters connected therewith or incidental thereto.*

BE it enacted by Parliament in the Fifty-sixth Year of the Republic of India as follows:—

Short title,  
extent,  
commencement  
and  
application.

1. (1) This Act may be called the Scheduled Castes and Scheduled Tribes (Reservation in Services) Act, 2005.

(2) It extends to the whole of India.

(3) It shall come into force at once.

(4) It shall apply to every establishment as defined in this Act.

Definitions.

2. In this Act, unless the context otherwise requires,—

(a) "appropriate Government" means the Central Government or a State Government as the case may be;

9 of 1932.

1 of 1956.

2 of 1912.

(b) "establishment" means any office under the control of the appropriate Government, the Parliament of India, Comptroller and Auditor General of India, Election Commission, Union Public Service Commission, all local bodies or other Authorities within the territory of India and under the control of the appropriate Government, Public Sector Banks, Public Sector Undertakings, Statutory Authorities, Autonomous bodies or Authority constituted under an Act of Parliament, registered or deemed to have been registered under any Act of Parliament or Universities recognised/affiliated by an Act of Parliament or a State Act or educational institutions receiving grant-in-aid from the appropriate Government, Partnership Act, 1932, firm registered under Indian Partnership Act, 1932 a Company registered under the Companies Act, 1956 a Trust registered under Indian Trusts Act, 1882 and Co-operative Societies registered under the Co-operative Societies Act, 1912 or deemed to have been registered under the Act and receiving loan or grant in lump sum, financial assistance or concessions from the appropriate Government or any Nationalised Bank, Financial Corporation managed or controlled by the appropriate Government, constituted or body corporate under any Act of Parliament or maintained by or with the help of the appropriate Government or where appropriate Government has majority share capital in an establishment;

(c) "notification" means a notification issued under the Act and published in the Official Gazette of India;

(d) "prescribed" means prescribed by rules made under this Act or are in force but not inconsistent with this Act or rules made thereunder;

(e) "prescribed authority" means Department of Personnel and Training of the appropriate Government or Secretary to the appropriate Government or any other Department, Nodal Ministry or Head of the Department or appointing authority in any establishment, or as may be specified in the appropriate rules, regulations, or instructions applicable to the establishment;

(f) "recruitment year" means the calendar year during which recruitment is made and include part of a year preceding the recruitment, if recruitment is made more than once within a year as per the procedure or as defined in the relevant recruitment rules or regulations or rules made under the proviso to article 309 of the Constitution of India and applied to that establishment;

(g) "rules" means rules made under this Act and instructions/directions/orders issued under this Act or of those existing but not inconsistent with this Act and rules;

(h) "Scheduled Castes and Scheduled Tribes" shall have the same meanings as assigned to them, respectively, under clause (24) and clause (25) of article 366 of the Constitution of India and notified by the President of India under articles 341(1) and 342(1) and as amended from time to time;

(i) "service" means any post or classes of posts in connection with the affairs of the establishment.

3. (1) There shall be reservation in every establishment for the Scheduled Castes and the Scheduled Tribes in all posts or classes of posts, including single post in a service, at all levels of recruitment, appointment, promotion or upgradation, except those exempted from the purview of the Act with prior approval of both Houses of Parliament.

(2) The percentage of reservation in posts or classes of posts for the Scheduled Castes and the Scheduled Tribes in sub-section (1) shall be in the ratio of the proportion of their population to the total population of the country in accordance with latest census but not less than fifteen per cent. for the Scheduled Castes and seven and a half per cent. for the Scheduled Tribes, respectively, or at such higher percentage as is applicable to the concerned establishment in case the recruitment, promotion or upgradation is made on the regional basis.

Reservation for the Scheduled Castes and the Scheduled Tribes in posts and classes of posts and percentage of reservation.

*Explanation:—*'census' for the purpose of this Act, will be treated complete if it had covered more than seventy per cent. of the total population of the country, irrespective of the fact that it remained incomplete in one or more States wholly or partially for any reason whatsoever.

(3) The posts or classes of posts reserved for the Scheduled Castes and the Scheduled Tribes shall be filled in such manner as may be prescribed.

(4) The posts or classes of posts reserved for the Scheduled Castes and the Scheduled Tribes shall be filled by candidates belonging to the Scheduled Castes or the Scheduled Tribes, as the case may be, and shall not be filled up by the general category candidates.

(5) The unfilled reserved posts or classes of posts for whatever cause may be, shall not be dereserved and shall be carried forward from time to time:

Provided that in case required number of candidates belonging to the Scheduled Tribes are not selected or not available to fill up the posts or classes of posts reserved for such category, the same shall be filled up by candidates belonging to the Scheduled Castes and *vice-versa*:

Provided further that in subsequent recruitment, in case a candidate belonging to the Scheduled Tribes is selected, he shall be appointed and adjusted in quota reserved for the Scheduled Castes and the balance of the prescribed percentage of reservation shall always be maintained.

Determination of inter-seniority of candidates belonging to the Scheduled Castes and the Scheduled Tribes.

4. Notwithstanding anything contained in any other law, judgement or decree or order or direction of a Court of Law or Tribunal or Authority having judicial powers—

(1) a candidate belonging to the Scheduled Castes or Scheduled Tribes selected on merit basis shall not be barred to avail the benefit of relaxed evaluation or concession for consideration at a later stage to a reserved post;

(2) a candidate belonging to the Scheduled Castes or the Scheduled Tribes selected on merit basis in a direct recruitment or promotion or upgradation or appointment by transfer, shall have his *inter-se* seniority on such post with general candidates and he shall be eligible for consideration for reserved posts in future;

(3) the candidates belonging to the Scheduled Castes and the Scheduled Tribes appointed or promoted to reserved posts shall be entitled for seniority, from the date of such appointment or promotion or upgradation and adjusted in the service as per the roster maintained in the establishment concerned at each stage of appointment or promotion or upgradation irrespective of the roster points occupied in the immediate lower cadre/posts as the case may be and the roster shall be treated as seniority for general as well as reserved candidates.

Special recruitment drive for filling up of reserved backlog vacancies and certain other benefits to the Scheduled Castes and Scheduled Tribes.

5. The appropriate Government or the State Government or an establishment shall—

(1) fill up backlog vacancies reserved for the Scheduled Castes and the Scheduled Tribes by special recruitment drive or promotion or upgradation without clubbing the current vacant post(s) or vacancy(ies);

(2) make provision for relaxation, prescribe lower qualifying marks or lesser standards of evaluation or relax experience for direct recruitment, promotion, upgradation for the candidates belonging to the Scheduled Castes and the Scheduled Tribes to secure their full representation in any cadre or grade or category in service;

(3) make provision for relaxation in upper age limit in favour of candidates belonging to the Scheduled Castes and the Scheduled Tribes for appointments in any service as may be prescribed;



(4) exempt payment of any fee for taking an examination to such extent as may be prescribed in case of candidates belonging to the Scheduled Castes and the Scheduled Tribes;

(5) pay travelling allowances to candidates belonging to the Scheduled Castes and the Scheduled Tribes called for interview as may be determined from time to time;

(6) club single posts carrying equal scale of pay or responsibility or duty in an establishment to provide reservation for the Scheduled Castes and the Scheduled Tribes in appointment or promotion or upgradation in accordance with the provisions of this Act.

6. (1) The roster points earmarked for the Scheduled Castes and the Scheduled Tribes, as the case may be shall remain in force as was in operation immediately before the 10th day of February, 1995; Roster.

(2) The roster shall be applied for a single post in an establishment and if a candidate belonging to the Scheduled Castes or the Scheduled Tribes is available at the roster point at the time of vacancy and he is found selected, he may be appointed;

(3) On appointment by promotion/upgradation to a higher post in a cadre / grade / service / category on regular basis according to rules, the seniority of the promotee belonging to the Scheduled Castes or the Scheduled Tribes shall be fixed in the appropriate roster point earmarked for the respective reserved category and the seniority of such a promotee shall be according to the roster in the promoted cadre or grade or service and the roster in the lower cadre or grade or service shall cease to have application from the date of promotion or upgradation on regular basis;

(4) A senior employee belonging to general category in lower cadre or grade or service, on promotion or upgradation to the next higher cadre or grade or service shall not gain seniority over the earlier promoted employee belonging to reserved category who is junior to him and the *inter-se* seniority between reserved and general category employees shall be determined from the respective dates of promotion or upgradation, irrespective of seniority or juniority position they had in the lower cadre or grade or category.

7. The Head of the establishment and if the appointing authority is higher in rank than Head of the establishment, the appointing authority shall be responsible for implementation of this Act. Responsibility for implementation of the Act.

8. No suit, prosecution or other legal proceedings shall lie against any establishment or other person responsible for implementation and application of the Act or anything which is done in good faith in pursuance of this Act or rules or order made thereunder or applicable in respect thereto. Act done in good faith.

9. Every establishment shall nominate one or more officers of such rank or ranks as may be prescribed to act as liaison officers from among the Scheduled Castes and the Scheduled Tribes, who shall, in particular, be responsible for:— Appointments of Liaison Officers in every establishment.

(a) coordination and strict implementation of the provisions of this Act and rules, instructions or directions issued thereunder, in their true spirit and purpose and to achieve its object;

(b) submission of the report and returns to the appropriate Government within the prescribed period;

(c) conducting annual inspection of the records of the establishment in such manner as may be prescribed;

(d) doing such other incidental work or act, as may be necessary, for the above purposes.

Submission of annual report and maintenance thereof.

10. (1) Every establishment shall maintain such records as may be prescribed and shall furnish every year to the appropriate Government in such manner and at such time as may be prescribed, an annual report on appointments and promotion or upgradation of candidates belonging to the Scheduled Castes and the Scheduled Tribes made by it during the previous year and number of unfilled posts or vacancies and the steps taken to fill up the posts or vacancies and reasons for not filling them up.

(2) An officer authorised by the appropriate Government in this behalf, not below the rank of Director in the Ministry concerned, may inspect any records or documents maintained in the establishment of the recruitment, appointment and promotion or upgradation of candidates belonging to the Scheduled Castes and the Scheduled Tribes in an establishment:

Provided that if an officer of equal rank or status to that of Director belonging to the Scheduled Castes or the Scheduled Tribes, as the case may be, is available, he shall be authorised for inspection and reporting.

(3) It shall be the duty of the Head of the establishment to make available such records or documents for inspection by the authorised officer under sub-section (2) and furnish such information or extend and arrange such assistance, as may be necessary, for him to carry out his functions under this Act.

Penalty for contravention of this Act.

11. Whosoever responsible for implementation of the Act contravenes the provisions of this Act, shall be punishable with imprisonment which may extend upto six months or fine of not less than rupees ten thousand or both and fine shall be recoverable from pay of such person:

Provided that nothing in this section shall render any person liable to punishment, if he proves that he had made very bonafide and sincere endeavour or exercised utmost care, attention, diligence and devotion to implement the provisions of the Act or rules or orders or directions issued under this Act or presently in force but not inconsistent with this Act and rules.

Caste certificate and verification.

12. (1) Any person claiming to be a member of the Scheduled Castes or the Scheduled Tribes, as the case may be, has applied for recruitment/seeks promotion or upgradation shall file an affidavit duly attested by a gazetted officer of the appropriate Government or a judicial Magistrate of the First Class and above rank as per the instruction of the Central Government as prescribed in the Schedule, that he, by birth, belongs to the Scheduled Castes or the Scheduled Tribes, as the case may be, and continues to be a member of the Scheduled Castes or the Scheduled Tribes and if that person had already obtained a certificate from a competent officer or authority in the prescribed format that he belongs to the Scheduled Castes or the Scheduled Tribes, as the case may be, the original certificate shall be produced at the time of selection.

(2) As soon as appointment in any post or office or service has been made in case of a candidate belonging to the Scheduled Castes or the Scheduled Tribes, the appointing authority shall immediately send the affidavit and the original Caste certificate and application for recruitment or promotion or upgradation to the Director of the Social Justice and Empowerment or Director of Tribal Affairs Ministry for verification and prompt reporting to the establishment.

(3) On receipt of the record from the establishment, the Director, Social Justice and Empowerment or Director of Tribal Affairs Ministry himself or by his authorised officer shall verify or cause verification of the correctness of the social status of the candidate and shall report back within three months from the date of the receipt of the record to the appointing authority/Head of the Department of the establishment, of the correctness or otherwise of the social status of the candidate who has been appointed.

(4) In case the report is adverse to the appointee, the appointing authority shall immediately issue a show cause notice to the appointee together with a copy of the report received from the Director, Social Justice and Empowerment Ministry or Director of Tribal

Affairs Ministry of the appropriate Government calling for an explanation within a specified time and on receipt of the explanation, if any, within the specified or extended time, it shall take appropriate action within a period of one month as per the rules or in accordance with the principles of natural justice and pass appropriate orders as the case may be.

(5) An appeal shall lie against the impugned order passed by the Head of the Department if it is the appointing authority, to the immediate higher authority who shall, after giving an opportunity of hearing in person to an aggrieved employee, decide the same within three months from the date of filing of the appeal and the decision shall be final and binding on the appointee.

(6) Whosoever knowingly makes a false claim that he is a member of the Scheduled Castes or the Scheduled Tribes, as the case may be, and whosoever charged with the responsibility of issuing a certificate or attesting an affidavit knowingly issues a false Caste certificate or attests an affidavit, and if proved that the person is not a member of the Scheduled Castes or the Scheduled Tribes, as the case may be, shall be punishable with imprisonment of not less than three years or fine which may extend to rupees twenty thousand or with both.

(7) The conviction under sub-section (6) shall be also a disqualification for appointments in any establishment under the appropriate Government.

13. (1) No prosecution for any offence under this Act shall be maintainable against an officer except by, or with the sanction of the Competent officer with prior approval of the National Commission for Scheduled Castes and Scheduled Tribes constituted under article 338 of the Constitution of India who shall have the authority to examine whether the conclusion of *prima facie* violation of the Act is proved from record or not.

Cognizance and trial of the offences under this Act.

(2) No court, inferior to that of a metropolitan Magistrate or a judicial Magistrate of the First Class shall try an offence punishable under this Act.

(3) An offence under this Act shall be cognizable and non-bailable.

14. All instructions, directions and orders issued by the prescribed authority relating to the reservation of posts/classes of posts or vacancies in services etc. including relaxation, concessions and safeguards for the Scheduled Castes and the Scheduled Tribes existing immediately before the 16th day of November, 1992 in respect of which there is no express provision in this Act, in so far as they are not consistent with the provisions of this Act, shall continue to be in force, unless withdrawn or superceded in the meanwhile with prior approval of both the Houses of the Parliament.

Saving of existing directions etc. issued by the Central Government.

15. Every establishment shall be bound by the act, rules or such existing rules, directions/instructions by whatever name may be called not contrary to or inconsistent with the provisions of this Act or as the Central Government may by general or special order, prescribe from time to time to give effect to the provisions of this Act.

Power of Central Government to give directions.

16. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law, order, judgement or decree of any Court, Tribunal or authority for the time being in force or any instrument/instruction having effect by virtue of any law, other than this Act.

Act to have over-riding effect.

17. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may by order published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Act, as may appear to be necessary for removing the difficulty.

Removal of difficulties.

(2) Every rule, instruction or direction or order made under sub-section (1) shall, as soon as may be, after it is so made, be laid before each House of Parliament.

Laying of  
Annual  
Report.

18. The Central Government shall in every two years, lay before each House of Parliament, a report giving full account of the implementation of the Act during the preceding two years.

Power to  
make rules.

19. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Act.

(2) In particular, and without prejudice to the generality of the fore-going powers, such provisions may provide for all or any of the following matters, namely:—

(a) the percentages of posts to be reserved in services for the members of the Scheduled Castes and the Scheduled Tribes which shall be not less than fifteen percent, and seven and a half percent, respectively;

(b) the manner of filling the posts reserved for the Scheduled Castes and the Scheduled Tribes;

(c) relaxation of upper age limit;

(d) exemption of fee for applying to the recruitment to a service;

(e) the authority to determine the travelling allowances;

(f) rank of officer to be nominated as liaison officer;

(g) the manner of conducting annual inspection of records;

(h) the records to be maintained by an establishment and the manner in which and the time at which an annual report on the appointment, etc. of the Scheduled Castes and the Scheduled Tribes made during the previous year to be furnished;

(i) the authority to sanction prosecution for violation of the provisions of the Act;

(j) form of affidavit of the candidate and the manner of attestation;

(k) procedure for inquiry by the appointing authority and appellate authority;

(l) any other matter, which is required to be, or may be prescribed.

(3) Every rule or instruction or direction made under this Act shall be laid, as soon as may be, after it is made, before each House of Parliament, while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or instruction or direction both Houses agree that the rule should not be made, the rule or instruction or direction shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under this rule or instruction or direction.

## SCHEDULE

## AFFIDAVIT

I, \_\_\_\_\_ son/daughter of \_\_\_\_\_ of  
 Village/Town \_\_\_\_\_ within the jurisdiction of \_\_\_\_\_  
 Police Station in \_\_\_\_\_ Taluk/Mandal  
 \_\_\_\_\_ in the District/Division \_\_\_\_\_ of the  
 State/Union Territory \_\_\_\_\_ belong to  
 \_\_\_\_\_ Community/Caste/Tribe which is recognised in item  
 No. \_\_\_\_\_ as the Scheduled Caste/Scheduled Tribe  
 under the Constitution (Scheduled Caste/Scheduled Tribe) Order, 1950 as amended from  
 time to time by the Scheduled Caste/Scheduled Tribe List Modification Order, 1956, the  
 Bombay Reorganisation Act, 1960, the Punjab Reorganisation Act, 1966, the State of Himachal  
 Pradesh Act, 1970, the North-Eastern Areas (Reorganisation), 1971 and the Scheduled Caste/  
 Scheduled Tribe Order Amendment Act, 1976.

I, \_\_\_\_\_ son/daughter of \_\_\_\_\_  
 further state that myself and my parents ordinarily/normally reside in the said Village/Town  
 and within the jurisdiction of \_\_\_\_\_ Police Station in  
 \_\_\_\_\_ Taluk/Mandal \_\_\_\_\_ in the  
 District/Division \_\_\_\_\_ of the \_\_\_\_\_  
 State/Union Territory. I, further solemnly verify and state that the facts stated above are true  
 and correct to the best of my knowledge and belief and no part of the statement is incorrect  
 or false.

Signature

Attested by Gazetted Officer

Note: In case the candidate is son/daughter of a migrant labourer/transferee, it should  
 further be stated in the affidavit the date of migration/transfer and the duration of  
 stay in the migrated/transferred State in which the Caste/Tribe was not recognised  
 as a Scheduled Caste/Scheduled Tribe.

The following are eligible to attest the affidavit:

(1) District Magistrate/Additional District Magistrate/Collector/Deputy Commissioner/  
 Additional Deputy Commissioner/Deputy Collector/First Class Stipendary Magistrate/Sub-  
 Divisional Magistrate/Taluk Magistrate/Executive Magistrate/Additional Assistant  
 Commissioner.

(2) Chief Presidency Magistrate/Additional Chief Presidency Magistrate/Presidency  
 Magistrate.

(3) Revenue Officer not below the rank of Tehsildar, and

(4) Sub-Divisional Officer/Mandal, Revenue/Development Officer of the area where  
 the candidate and/or his family normally resides.

## STATEMENT OF OBJECTS AND REASONS

The preamble of the Constitution assures social and economic justice, equality of status and of opportunity to every citizen.

Article 38 imposes duty on the State to strive to promote the welfare of the people by securing and protecting as effectively, as it may, a social order in which justice social, economic and political shall inform all the institutions of the national life in particular strive to and endeavour to eliminate inequalities in status, facilities and opportunities among individuals and the groups of people.

Article 46 enjoins the State to promote with special care, economic interest, in particular, of the Scheduled Castes and the Scheduled Tribes and shall protect them from social injustice.

Article 335 mandates that the claims of the Scheduled Castes and the Scheduled Tribes shall be taken into consideration consistently with efficiency of administration in making of appointment to services and posts under the State.

Even after fifty-seven years of independence the Scheduled Castes and the Scheduled Tribes do not have proper representation in all the services under the State.

The Supreme Court of India in *Indira Sawhney versus Union of India* case has opined that reservation in specialised posts in engineering, medical, military etc. shall not be made.

In *Ajit Singh-II* case, the Supreme Court held that the Scheduled Castes and the Scheduled Tribes promoted to reserved quota posts shall not be entitled to seniority from the date of promotion till the erstwhile senior general candidates are promoted.

It was also held that the Scheduled Castes and the Scheduled Tribes promotees have no fundamental right to promotion though article 16(4A) guarantees such right while declaring the general candidates have right to promotion as a fundamental right impeding the phase of providing proper representation to the Scheduled Castes and the Scheduled Tribes in all services and posts under the State.

It was also held that the roster points in the lower cadre of the reserved candidates on promotion should not be delinked. In *Narsimhan and Telecommunication cases*, the Supreme Court opined that reservation in single post is violative of article 14 of the Constitution. In *Ajit Singh-II* case, the Supreme Court had held that the facilities and opportunities in relaxed standards for consideration of the claims of the reserve candidates for appointment or promotion to a service or a post is illegal. The Department of Personnel, Public Grievances and Pension, in purported implementation of the above judgements of the Supreme Court, issued various orders nullifying the effective implementation of the reservation in the letter and spirit of the Constitutional mandate.

It has been the policy of the Central Government that reservation in services/posts under the Central Government etc. is one of the policies to provide equality of opportunity and of status, economic and social justice to the Scheduled Castes and the Scheduled Tribes.

The aforesaid judgements defeat the object of the Constitution and the policy of the State in securing proper and adequate representation to the Scheduled Caste and the Scheduled Tribe in various posts and services under the State.

Every opportunity to the Scheduled Castes and the Scheduled Tribes should be provided to remove social inequality and economic empowerment be given to secure equality to status and dignity of individual.

After adopting liberal economy and private investment in Public Sector Undertakings, it has become a necessity to provide opportunity of employment to the Scheduled Castes and the Scheduled Tribes in the services and posts in the private sector also.

With a view to remove the injustice being meted out to the Scheduled Castes and the Scheduled Tribes in implementation and enforcement of the policy of reservation in services under the State. It is necessary to enact a law to that effect.

Hence this Bill.

NEW DELHI;  
November 29, 2004

BRAJESH PATHAK

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#### FINANCIAL MEMORANDUM

No additional or fresh recurring or non-recurring expenditure is likely to be involved from the Consolidated Fund of India since the existing concerned Departments and Ministries are already implementing the reservation scheme in services.

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#### MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 19 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. As the rules will relate to matters of detail only, the delegation of the legislative power is of a normal character.

## BILL NO. 13 OF 2005

*A Bill further to amend the Constitution (Scheduled Castes) Order, 1950.*

BE it enacted by Parliament in the Fifty-sixth Year of the Republic of India as follows:—

Short title and  
commencement.

1. (1) This Act may be called the Constitution (Scheduled Castes) Order (Amendment) Act, 2005.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Amendment  
of the  
Schedule.

2. In the Schedule to the Constitution (Scheduled Castes) Order, 1950,—

(i) in Part XVIII—Uttar Pradesh, the existing entries 56 to 66 shall be renumbered as entries 57 to 67 and before entry 57 as so renumbered, the following entry shall be inserted, namely:—

“56. Namasudra”.

(ii) in Part XXIV—Uttaranchal, the existing entries 56 to 65 shall be renumbered as entries 57 to 66 and before entry 57 as so renumbered, the following entry shall be inserted, namely:—

“56. Namasudra”.



## STATEMENT OF OBJECTS AND REASONS

After partition, a large number of people who were uprooted from erstwhile East Pakistan and now, Bangladesh were settled in Chhattishgarh, Madhya Pradesh, West Bengal, Orissa, Assam, Tripura and Uttar Pradesh. They mainly belong to Namasudras caste. This caste was recognized as a Scheduled Caste and was included in the lists of Scheduled Castes for the States of Assam, Orissa, West Bengal, Tripura and in some other States. But the community was not included in the lists of Scheduled Castes for the States of Uttar Pradesh and Uttaranchal. The people of this community residing in Uttar Pradesh and Uttaranchal are not entitled to avail the benefits extended to other Scheduled Castes.

Therefore, to give them legal rights and justice and in view of their economic, educational and social backwardness, it is proposed in the Bill that the Namasudra Community be included in the lists of Scheduled Castes for the States of Uttar Pradesh and Uttaranchal.

The Bill seeks to achieve the above objective.

NEW DELHI;  
December 20, 2004.

BASUDEB ACHARIA

## BILL NO. 25 OF 2005

*A Bill to provide for rehabilitation and welfare measures for the poor and destitute widows and for matters connected therewith or incidental thereto.*

BE it enacted by Parliament in the Fifty-sixth Year of the Republic of India as follows:—

Short title  
and extent.

1. (1) This Act may be called the Poor and Destitute Widows (Rehabilitation and Welfare) Act, 2005.

(2) It extends to the whole of India.

Definitions.

2. In this Act, unless the context otherwise requires,—

(a) "appropriate Government" means in the case of a State, the Government of that State and in all other cases, the Central Government;

(b) "authority" means the Poor and Destitute Widows Welfare Authority established under section 3 of this Act;

(c) "poor and destitute widow" means a woman whose husband is dead after her legal marriage and whose annual income from all sources does not exceed rupees ten thousand; and

(d) "prescribed" means prescribed by rules made under this Act.

3. (1) The Central Government shall, by notification in the Official Gazette, establish a Poor and Destitute Widows Welfare Authority.

Poor and destitute widows welfare authority.

(2) The authority shall be a body corporate and have perpetual succession and a common seal, with power to acquire, hold and dispose of movable and immovable property and to enter into contract and shall also be liable to sue and be sued by that name.

(3) The headquarters of the Authority shall be at Nagpur in the State of Maharashtra.

(4) The authority shall have the power to establish its branches in all States and Union territories in such a manner as may be prescribed.

4. The authority shall consist of the following members, namely:—

Composition of the authority.

(a) the Union Minister of Welfare to be appointed by the Central Government and he shall be the *ex-officio* Chairperson of the Authority;

(b) a Deputy Chairperson to be appointed by the Central Government;

(c) three Members of Parliament of whom two shall be from the House of the People and one from the Council of States to be nominated by the presiding officer of the House concerned;

(d) not more than two members to be appointed by the Central Government to represent the Ministry of Human Resource Development;

(e) not more than five members to be appointed by the Central Government, in consultation with the State Governments, representing State Governments in the alphabetical order and it shall be ensured that all the States get represented in the Authority by rotation; and

(f) not more than four members to be appointed by the Central Government from Non-Government Organisations working in the field of the welfare of widows.

5. The authority shall appoint officers and staff in such numbers as may be necessary for the efficient functioning of the authority.

Officers and Staff of the authority.

6. The Central Government shall provide adequate funds to the authority to implement the provisions of this Act after making appropriation as per rules made by the Parliament from time to time in this regard.

Central Government to provide adequate funds.

7. The authority shall set up a fund for destitute widows named as "Widows Welfare Fund" and all receipts from Central Government, State Governments and other Government or Non-Government Organisations and individuals shall be deposited with the said fund and shall be used for the welfare and rehabilitation of poor and destitute widows.

Authority to set up Widows Welfare Fund.

8. (1) Notwithstanding anything contained in any other law, it shall be the duty of the authority to adopt such means, as it may deem fit, to promote the rehabilitation and welfare of the poor and destitute widows of the country.

Duty of the Authority to promote the rehabilitation and welfare of poor and destitute widows.

(2) Without prejudice to the generality of the provisions contained in sub-section (1), the authority:—

(a) shall maintain a district wise register, in such manner as may be prescribed, wherein the names of those widows shall be entered who need help from the authority.

(b) shall advertise comprehensively through electronic and print media regarding rehabilitation packages being provided by the State to the needy widows.

(c) shall carry out such other functions as may be entrusted by the appropriate Government, from time to time, not inconsistent with the provisions of this Act.

Facilities to  
the poor and  
destitute  
widows,

9. The appropriate Government shall, on the recommendation of the authority, provide the following facilities to the widows registered under this Act:—

(a) in case of a destitute widow having one or more dependent children, not more than rupees one thousand and five hundred and in case of a destitute widow having no dependent child, not more than rupees one thousand per month as subsistence allowance;

(b) free residential accommodation to every destitute widow;

(c) free education including technical education to the dependent children;

(d) if the destitute widow is suffering from poor health, such other financial assistance and medical assistance as may be prescribed; and

(e) free vocational education wherever necessary;

(f) such other facilities as are necessary for the rehabilitation, welfare, proper development and for living a dignified life:

Provided that in case the poor and destitute widow gets any gainful employment or remarries, the facilities being provided to her shall be withdrawn with effect from the date she gets employment or from the date of remarriage, as the case may be.

Facilities to  
Bhajan singing  
widows.

10. The appropriate Government shall, in coordination with the authority, conduct a census of those widows who earn their livelihood by singing Bhajans in the temples and the authority shall provide them with all such facilities as are prescribed under section 9 of this Act.

Act to have  
overriding  
effect.

11. The provisions of this Act shall have effect notwithstanding anything inconsistent contained therewith in any other law for the time being in force.

Act not to be  
in derogation  
of other laws

12. The provisions of this Act shall be in addition to and not in derogation of any other law applicable to the destitute widows for the time being in force.

Power to  
make rules.

13. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Act.

(2) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament while it is in session, for a total period of thirty days which may be comprised in one session or in successive sessions and if, before the expiry of the session in which it is so laid or the session immediately following, both Houses agree that the rule should be either modified or annulled, the rules shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

## STATEMENT OF OBJECTS AND REASONS

A large number of widows in our country are leading a pitiable life and have no means to sustain themselves and their dependent children. They work as maids and do other various types of domestic work like cleaning utensils, washing cloths, cleansing, dusting, etc. at very low wages. They can do this type of work only when they are physically fit. But many of them are not so lucky. They are incapacitated because of old age, physical disability or serious and chronic illness and in many cases they are mentally challenged. Such helpless widows are compelled to earn their livelihood by begging in streets. Many young widows are forced into prostitution and many opt for this as a profession to save themselves from starvation. A large number of widows are forced to leave their own houses after the death of their husbands and generally, they go to the temples situated at Mathura, Vrindavan or some other places to get solace. They earn a rupee or two as a daily wage after singing Bhajans there for the whole day and in many cases such widows are subjected to sexual exploitation by the unscrupulous people at such places. In many cases widows are devoid of their rights by their in-laws and parents and are left to fend for themselves. Their condition becomes worse when they have dependent children to be looked after and those children are expelled from their homes alongwith their mother. In rural areas, the condition of widows is more serious. They are not only ill treated but they are considered a bad women too. They are forbidden to take part in any of the family celebrations. Being illiterate, they are worst exploited physically, mentally and socially.

Our's is a welfare State and it is the duty of the State to rehabilitate such unfortunate widows and to implement welfare schemes for this purpose. An authority should be established with the coordination of Central and State Governments for the welfare of the widows so that they cannot be forced into begging or prostitution.

Hence this Bill.

NEW DELHI;  
December 23, 2004.

RAMDAS ATHAWALE

### FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for establishment of a Poor and Destitute Widows Welfare Authority. Clause 4 provides for composition of the authority. Clause 5 provides for appointment of officers and staff of the authority. Clause 6 provides that the Central Government shall provide funds for the functioning of the authority. Clause 7 provides that the authority shall set up Widows Welfare Fund. Clause 8 provides that the authority shall maintain a register of those widows who need help from the authority. Clause 9 provides for various facilities to be provided to poor and destitute widows. Clause 10 provides that the appropriate Government, with the help of the authority, shall conduct a census of Bhajan singing widows with a view to provide them assistance. The State Governments will incur expenditure in respect of their State out of their respective Consolidated Funds for implementing the provisions of this Bill. The Bill, if enacted and brought into operation will involve recurring expenditure of rupees two hundred crore per annum from the Consolidated Fund of India.

A non-recurring expenditure of about two hundred crore rupees per annum is also likely to be involved.

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### MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 13 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. The rules will relate to the matters of detail only. The delegation of legislative power is, therefore, of a normal character.

## BILL NO. 7 OF 2005

*A Bill to provide for abolition of begging and for matters connected therewith or incidental thereto.*

BE it enacted by Parliament in the Fifty-sixth year of the Republic of India as follows:—

1. (1) This Act may be called the Prevention of Begging Act, 2005.

Short title  
and extent.

(2) It extends to the whole of India.

2. In this Act, unless the context otherwise requires,—

Definitions.

(a) "appropriate Government" means in the case of a State, the Government of that State and in all other cases, the Central Government;

(b) "begger" means a person who indulges in begging;

(c) "Begging" means—

(i) soliciting alms in a public place, including railways, bus-stops, road sides and public transport, by invoking compassion; and

(ii) entering in any private premises for the purpose of soliciting or receiving alms;

(d) "receiving centre" means a centre established under section 5, where any person taken into custody on the ground of begging shall be kept till the time he is rehabilitated.

Abolition of begging.

3. Begging by any person in any manner is hereby abolished.

Punishment for forced begging

4. Whoever forces or encourages any person, including a child in his care, custody or charge, for begging or whoever uses any person as an exhibit for the purpose of begging, shall, in the first instance, be warned of indulging in such activities and punished with a fine of rupees five hundred if he indulges inspite of the warning given to him.

Arrest of persons found begging, etc

5. (1) Any person found begging shall be arrested by the Police.

(2) Any person so arrested shall be sent to a receiving centre, to be established in every district by the appropriate Government, wherein such person shall be provided with facilities for his rehabilitation.

Beggars' Welfare Fund

6. (1) The Central Government shall constitute a Fund to be called the Beggars' Welfare Fund for the welfare of the beggars.

(2) The fund shall be utilised by the Central Government as and when required for the welfare and rehabilitation of beggars.

Formulation of schemes and plans for beggars, etc.

7. (1) The appropriate Government shall formulate such schemes, work out such plans, including plans for provision of education, and create suitable infrastructure in every district so as to enable beggars to take up suitable jobs for earning livelihood.

(2) The appropriate Government shall set up destitute homes for providing food, shelter and protection, to the old, infirm, helpless and destitute persons so as to discourage them from indulging in begging.

Power to make rules

8. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.



### STATEMENT OF OBJECTS AND REASONS

Despite all efforts made and welfare measures taken by the Central Government, and the State Governments, the practice of begging continues unabated all over the country, especially in the metropolitan cities and urban area. There are organised gangs who exploit innocent children and force them into begging not for the sustenance of these boys and girls but for gathering alms for the gang leaders and organisers. Some people have made forcing children into begging a business. They kidnap children and force them to go for begging and collect huge amount.

As per 1971 census the number of beggars in the country was ten lakhs and the number has considerably increased during subsequent years.

While, the old and infirm beggars can be sent to destitute homes the able-bodied beggars should be given education and training so that they can get gainful employment.

Therefore, it is high time that a law for prevention of begging is brought forward.

Hence the Bill.

NEW DELHI;  
December 23, 2004.

RAMDAS ATHAWALE

### FINANCIAL MEMORANDUM

Clause 5 of the Bill provides for establishment of "receiving centres" in every district by the appropriate Government. Clause 6 provides for setting up of Beggars' Welfare Fund. Clause 7 provides for formulation of schemes and creating suitable infrastructure by appropriate Government in every district so as to enable beggars to take up suitable jobs. It further provides for setting up of destitute homes by the appropriate Government. The Central Government would have to incur expenditure from the Consolidated Fund of India for establishment of receiving centres, destitute homes, formulating schemes, creating suitable infrastructure in respect of Union territories and shall also have to contribute monies into Beggars' Welfare Fund. As far as establishment of receiving centres, destitute homes, formulation of schemes and creating suitable infrastructure in the States are concerned, the concerned State Governments will incur expenditure from their Consolidated Funds, though the Central Government may have to extend some financial assistance to the States for implementing the provisions of the Bill. The Bill, therefore, if enacted, will involve expenditure from the Consolidated Fund of India. It is likely to involve a recurring expenditure of about rupees one hundred crore per annum.

A non-recurring expenditure of about rupees fifty lakhs is also likely to be involved.

### MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 8 empowers the Central Government to make rules for carrying out the provisions of the Bill. Since the rules will relate to matters of detail only, the delegation of legislative power is of a normal character.

## BILL NO. 14 OF 2005

*A Bill further to amend the Delimitation Act, 2002.*

BE it enacted by Parliament in the Fifty-sixth Year of the Republic of India as follows:—

Short title and  
commencement.

1. (1) This Act may be called the Delimitation (Amendment) Act, 2005.

(2) It shall be deemed to have come into force with effect from the 3rd June, 2002.

Amendment  
of section 2

2. In section 2 of the Delimitation Act, 2002, in clause (f), for the words “the State of Jammu and Kashmir”, the words “the States of Jammu and Kashmir and Uttaranchal” shall be substituted. 33 of 2002.

## STATEMENT OF OBJECTS AND REASONS

Parliament enacted the Delimitation Act, 2002 on the 3rd June, 2002 with a view to readjusting the territorial constituencies in each State for the purpose of elections to the House of the People and the State Legislative Assemblies on the basis of the census figures as ascertained at the census held in the year 1991 without any increase in the number of seats allotted to the House of the People and State Assemblies. However, the Delimitation Act, as amended in 2003 provides for the readjustment of territorial constituencies of Assembly and Parliamentary Constituencies on the basis of 2001 census.

The Act exempts the State of Jammu and Kashmir from its purview in view of article 370 of the Constitution. The State of Uttaranchal was formed with effect from 9 November, 2000 after the Parliament passed the Uttar Pradesh Reorganisation Act, 2000 which received the assent of the President on 25 August, 2000. The delimitation of seventy Assembly constituencies in the State was undertaken in the year 2001. All persons, bodies, associations and others concerned with the delimitation exercise were satisfied. On the basis of this delimitation, elections were held in the State in February, 2002 and the first elected Government was formed in the State. There has been no demand for fresh delimitation of constituencies in the State. The border areas of the State of Uttaranchal are sensitive from the view point of internal security as this State shares common border with China and Nepal. If the fresh delimitation on the basis of census held in the year 2001 is effected, it would result in reduction in the number of elected representatives which are at present representing the border areas comprising large mass of difficult hilly terrains. Further, the decrease in the number of elected representatives from these vast areas would adversely affect the social and economic development of the region. As elected representatives are mainly responsible for highlighting and bringing to the notice of the concerned Government/ Authorities the activities of the areas they represent, the reduction in the number of elected representatives representing large areas in the State of Uttaranchal is bound to adversely affect the overall development of these areas and may also aggravate the existing problems of Maoist terrorism in the State. The fresh delimitation exercise is not going to benefit the State in any manner.

The Bill, therefore, proposes to exempt the State of Uttaranchal from the purview of the Delimitation Act, 2002.

NEW DELHI;  
December 23, 2004.

BACHI SINGH RAWAT

## BILL NO. 34 OF 2005

*A Bill to provide for the protection and welfare of tobacco growers.*

BE it enacted by Parliament in the Fifty-sixth Year of the Republic of India as follows:—

Short title,  
extent and  
commence-  
ment.

1. (1) This Act may be called the Tobacco Growers (Benefit) Act, 2005.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Definitions.

2. In this Act, unless the context otherwise requires,—

(a) "prescribed" means prescribed by rules made under this Act.

(b) "small and marginal tobacco growers" shall mean tobacco growers who are declared as such under this Act; and

(c) "tobacco grower" means any person who cultivates tobacco.

3. The Central Government shall procure through the Tobacco Board all the tobacco produced in the country and shall also fix remunerative price of tobacco every year after taking into consideration the increase in prices of tobacco seeds, pesticides and fertilizers, total investment capacity of tobacco growers and such other factors, as may be prescribed.

Central Government to procure tobacco and fix remunerative price thereof.

4. The Central Government shall endeavour to export all the excess tobacco produced in the country during a year.

Export of excess tobacco.

5. The entire Tobacco crop, to the extent of quantity authorised by the Tobacco Board and grown by the small and marginal tobacco growers shall be compulsorily insured free of cost by the Central Government against natural calamities, decline in yields of tobacco produced, fall in prices of tobacco and such other eventualities, as may be prescribed.

Insurance.

6. (1) The Central Government shall establish a fund to be known as the Tobacco Growers Benefit Fund.

Establishment of Tobacco Growers Benefit Fund.

(2) The Central Government, the State Governments and the Indian Manufacturers of Tobacco Products, who use tobacco as raw material, shall contribute to the Fund in such ratio, as may be prescribed.

(3) The fund shall be utilized for the following purposes:—

(a) to extend financial help to the small and marginal farmers in such cases, as may be prescribed.

(b) giving financial assistance to tobacco growers for purchasing tobacco seeds, pesticides and fertilizers and in cases of low yields or fall in prices of tobacco or destruction of their crops due to rains, cyclones and floods.

7. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

Power to make rules.

## STATEMENT OF OBJECTS AND REASONS

The present trend is to ban tobacco and its use wherever possible and to dissuade people from using Tobacco products in public. Enactments have been brought about by the Central and the State Governments.

The Central Government and State Governments do not encourage tobacco cultivation. In fact, the tobacco growers are advised to explore alternative crops.

However, agriculturists who are growing tobacco for the last many years due to their traditional attachment to the tobacco crop will not be able to grow other crops and the new crops are also not likely to give that much of earnings as tobacco despite difficulties involved in growing tobacco.

Tobacco is one of the commercial crops being produced in Andhra Pradesh and other States. The estimated area under tobacco cultivation is 6600 hectares and most of which is under flue-cured virginia (FCV) tobacco.

Due to problems being faced for marketing the produce, the farmers are discouraged to raise the crop as a result of which the area under tobacco cultivation is being reduced. The tobacco grower is a victim of fall in the prices and also of other natural calamities like storms, heavy rains, etc. Therefore, there is an urgent need to bring a law ensuring the tobacco growers of the Government's help in the event of excess production of fall in prices or damage to crops. Therefore, the creation of a fund and provision of insurance cover for tobacco growers will help them immensely.

To impress upon the Government to come to the rescue of the growers, it may be noted that tobacco crop is also an employment generator at farm level. It also earns huge amounts of Central Excise and Foreign Exchange to the tune of rupees 8000 crore and 1000 crore, respectively.

Hence this Bill.

NEW DELHI;

February 1, 2005.

R. SAMBASIVA RAO

## FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for the purchase of tobacco from tobacco growers by the Central Government through Tobacco Board of India.

Clause 5 provides that the entire tobacco grown by small and marginal tobacco growers shall be compulsorily insured free of cost by the Central Government against natural calamities, etc.

Clause 6 provides for the establishment of a Tobacco Growers Benefit Fund to which the Central Government and State Governments shall contribute in such ratio as may be prescribed.

The Bill, therefore, if enacted, would involve expenditure from the Consolidated Fund of India. It is likely to involve a recurring expenditure of rupees three hundred crore per-annum.

A non-recurring expenditure to the tune of rupees four hundred crore is also likely to be involved.

## MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 7 of the Bill empowers the Central Government to make rules for carrying out the purposes of this Bill. The rules will relate to matters of detail only. The delegation of legislative power is of a normal character.

## BILL NO. 22 OF 2005

*A Bill to provide for the compulsory supply of electricity to the agricultural sector and rural areas.*

BE it enacted by Parliament in the Fifty-sixth Year of the Republic of India as follows:—

1. (1) This Act may be called the Electricity (Priority Supply to Rural Areas and Agriculture Sector) Act, 2005. Short title and extent.

(2) It extends to the whole of India.

2. In this Act, unless the context otherwise requires,— Definitions.

(a) "agriculture" includes poultry, dairy farming, orchards, rearing of animals and farming;

(b) "appropriate Government" means in the case of a State, the Government of that State and in other cases, the Central Government;

(c) "prescribed" means prescribed by rules made under this Act; and

(d) "village industries" means small scale industries in villages and includes khadi and cottage industries.

Supply of  
electricity to  
Agriculture  
and rural  
households  
and villages  
industries.

3. (1) Notwithstanding anything contained in any other law for the time being in force, the appropriate Government shall ensure that seventy percent of the total electricity generated within its territorial jurisdiction including the electricity generated by foreign companies shall be supplied to the agricultural sector, rural households and village industries.

(2) The appropriate Government shall, within its territorial jurisdiction, allocate quantum of electricity to be supplied to the villages in such manner as may be prescribed:

Provided that in every village electricity shall be supplied—

(a) to the farmers atleast for three hours every day for agricultural purposes at half the rate;

(b) free of cost to every household belonging to Scheduled Castes and Scheduled Tribes and other weaker sections of the society atleast for two hours during morning and evening every day; and

(c) to village industries at such concessional rate as may be prescribed atleast for five hours every day for six days in a week.

Power to  
make rules.

4. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.



### STATEMENT OF OBJECTS AND REASONS

It is said that India lives in villages and it is true that more than seventy percent. of our population lives in villages and earns its livelihood through agriculture, horticulture, rearing of animals, poultry and other village industries of various kinds. But, unfortunately the major part of rural India lives in dark, as most of the villages are yet to be electrified. Agriculture is mainly dependent on monsoon. Even if there are tubewells, they do not function in the absence of regular power supply. In fact there is little power supply to rural areas. Major chunk of power generated in the country is consumed by cities. In fact thirty percent of the population living in cities is consuming almost the entire power generated in the country. This has resulted in the backwardness of the rural areas.

For desired results and to achieve progress, major portion of power generated has to be diverted to rural areas of the country and that too according to the ratio of the population. This step will boost agricultural and industrial production apart from serving domestic requirements. It is, therefore, proposed to supply electricity to households and for agricultural and industrial purposes in rural areas compulsorily.

Hence this Bill.

NEW DELHI,  
February 1, 2005.

R. SAMBASIVA RAO

### FINANCIAL MEMORANDUM

Clause 3 of the Bill provides that appropriate Government shall supply electricity at half rate to farmers for three hours every day, free of cost to Scheduled Castes/Tribes and other weaker sections of the society and at concessional rates to village industries. The Bill, therefore, if enacted, will involve expenditure from the Consolidated Fund of India in relation to Union territories. The expenditure in respect of States will be met out of their respective Consolidated Funds. It is estimated that an annual recurring expenditure of about rupees ten crore is likely to be involved.

A non-recurring expenditure of about rupees five crore is also likely to be involved with respect to giving of connections where electricity is not available at present.

### MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 4 of the Bill empowers the Central Government to make rules for carrying out the purposes of this Bill. The rules will relate to matters of detail only.

As such, the delegation of legislative power is of a normal character.

## BILL NO. 23 OF 2005

*A Bill further to amend the Prevention of Insults to National Honour Act, 1971.*

BE it enacted by Parliament in the Fifty-sixth Year of the Republic of India as follows:—

Short title  
and extent.

1. (1) This Act may be called the Prevention of Insults to National Honour (Amendment) Act, 2005.

(2) It extends to the whole of India.

Insertion of  
new Section 4.

2. After section 3A of the Prevention of Insults to National Honour Act, 1971, the following section shall be inserted, namely:—

Insults to  
national  
leaders etc.

“4. Whoever intentionally,—

(i) hoists the National Flag of any other country atop any Government building or any individual house or at any public place;

(ii) passes disparaging and insulting remarks against any national leader in any public place or public view or publishes or causes to be published such remarks through press or any other media; or

(iii) burns, distorts, mutilates, defaces, defiles, disfigures, destroys, tramples upon the statue of any national leader installed in a public place,

shall be punished with imprisonment for a term which may extend to one year or with fine, or with both.

*Explanation*—For the purposes of this section, the expression “national leader” means any leader or martyr who inspired the national struggle for freedom of the country.”.

## STATEMENT OF OBJECTS AND REASONS

Alongside the celebrations of the fifty-seventh anniversary of our Independence, we are also witnessing the denigration and utterances of highly derogatory and disparaging remarks about our national leaders who inspired the country to freedom, after making enormous sacrifices and even laying down their lives for the cause. Such derogatory acts to these leaders are done through public statements, press and electronic media. Even the statues and images of such national heroes and martyrs installed in prominent public places are disfigured, damaged and even dismantled and removed with impunity. This not only constitutes denigration and insult to individual leaders concerned but also insult to the nation.

It is, therefore, proposed to amend the Prevention of Insults to National Honour Act, 1971, by enlarging its scope to include such acts of denigration of national leaders and to prescribe appropriate punishment for such insult.

Hence this Bill.

NEW DELHI;  
February 1, 2005.

R. SAMBASIVA RAO

## BILL NO. 29 OF 2005

*A Bill to provide for the protection of individual's privacy and prevention of the use of digital technology for voyeurism and for matters connected therewith or incidental thereto.*

BE it enacted by Parliament in the Fifty-sixth Year of the Republic of India as follows:—

Short title,  
extent and  
commence-  
ment.

1. (1) This Act may be called the Protection of Privacy and Prevention of Video Voyeurism Act, 2005.

(2) It extends to the whole of India.

(3) It shall come into force with immediate effect.

Definitions.

2. In this Act, unless the context otherwise requires,—

(a) “content” means any sound, text, data, picture (still or moving), other audio-visual representation or signal or any combination thereof which is capable of being created, processed, stored, retrieved or communicated electronically;

(b) “prescribed” means prescribed by rules made under this Act;

(c) “Video Voyeurism” means use of digital technology to create, observe, deliver, broadcast or access any programme having voyeuristic content;

(d) “voyeurism” means deriving sexual gratification from surreptitiously watching sexual acts or objects; and

45 of 1860.  
21 of 2000.  
13 of 1885.

(e) words and expressions used but not defined in this Act but defined in the Indian Penal Code, 1860, the Information Technology Act, 2000 or the Indian Telegraph Act, 1885 shall have the same meaning as is respectively assigned to them in those Acts.

3. Every person shall have the right of privacy and there shall be no unwarranted infringement thereof by any other person.

Right to privacy.

4. Any person, whether a licensed service provider or an individual, using any communication technology shall maintain decency in portrayal of women and not portray unnecessary violence or sexual conduct.

Decency to be maintained in portrayal of women.

5. No person shall use a cellular phone with a built-in camera if it does not produce a sound of at least sixty-five decibels and flash a light when used to take a picture of any object.

Restriction on using cell phone camera.

6. No person shall photograph:

Restrictions on photography in public places.

(i) any part or whole of a human body which is in unclothed state or is in partially clothed state without the consent of the person concerned; and

(ii) any part or whole of a human body at a public place without the consent of the person concerned;

with a view to derive voyeuristic pleasure from the photograph and/or with the intent of making commercial gains from it.

7. Any person who commits an offence under section 3 shall be punished with imprisonment of either description for a term which may extend to two years and with fine which may extend to ten thousand rupees.

Punishment for offences under section 3.

8. Whoever commits an offence under section 4 shall be punished with imprisonment of either description which may extend to one year and with fine which may extend to ten thousand rupees:

Punishment for offences under section 4.

Provided that whoever benefits from or intends to derive any monetary gain from acts enumerated in section 4 shall be punished with an additional fine of rupees fifty thousand.

9. Any person who commits an offence under section 5 or section 6 shall be punished with fine which may extend to ten thousand rupees.

Punishment for offence under sections 5 and 6.

45 of 1860.

10. Notwithstanding anything contained in section 292, section 293 or section 294 of the Indian Penal Code, 1860 whoever photographs, records, produces, conveys, distributes or accepts delivery by means of digital communication including transmission, emission or reception or signals by wire or other electromagnetic waves, or wireless equipment, any voyeuristic content or that which depicts a sexual act or object or is otherwise lewd, indecent or obscene shall be punished with imprisonment which may extend to five years and with fine which may extend to fifty thousand rupees.

Punishment for voyeuristic acts.

11. Whoever attempts to commit or abets the commission of any offence under this Act shall be punished with imprisonment and fine as prescribed for that offence.

Punishment for abetment of offences under this Act.

2 of 1974.

12. Notwithstanding anything contained in the Code of Criminal Procedure, 1973, every offence punishable under this Act shall be cognizable.

Every offence to be cognizable offence.

13. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force.

Act to have overriding effect.

14. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

Power to make rules.

## STATEMENT OF OBJECTS AND REASONS

The Multi-Media Messaging Service (MMS) episode in Delhi and the case of a Pune-based landlord intruding on the privacy of his female tenants have thrown up some important questions about lacunae in our existing laws and challenges to deal with voyeurism through digital technology.

With increasing commercialization of sex, internet has opened new vistas in pornography. Phone cameras are now employed with impunity to secretly capture private images of women and then used to embarrass or blackmail them. These cameras are used to take close-up photographs of different parts of unwary ladies in gyms and swimming pools or even in busy markets.

Experience has shown that the unscrupulous elements are always quick to exploit and misuse any new advancement in technology. It is the duty of the State to protect the citizens and the society. To deal with new situations which we could not fathom till recently but are now threatening to acquire menacing proportions of depravity and lawlessness, there is need to make new laws to deal with the situation.

Hence this Bill.

NEW DELHI;  
February 3, 2005.

PAWAN KUMAR BANSAL

## FINANCIAL MEMORANDUM

The Bill, if enacted, will involve no additional expenditure from the Consolidated Fund of India. There could only be an increase in the work load of existing courts. No special courts are sought to be established under this Bill.

## MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 14 of the Bill gives power to the Central Government to make rules for carrying out the purposes of the Bill. The rules will relate to matters of detail only.

The delegation of legislative power is of a normal character.

## BILL NO. 26 OF 2005

*A Bill further to amend the Working Journalists and other Newspaper Employees  
(Conditions of Service) and Miscellaneous Provisions Act, 1955.*

BE it enacted by Parliament in the Fifty-sixth Year of the Republic of India as follows:—

1. (1) This Act may be called the Working Journalists and other Newspaper Employees (Conditions of Service) and Miscellaneous Provisions (Amendment) Act, 2005. Short title and commencement.

(2) It shall come into force at once.

45 of 1955.

2. In Chapter II of the Working Journalists and other Newspaper Employees (Conditions of Service) and Miscellaneous Provisions Act, 1955, after section 13AA, the following sections shall be inserted, namely:— Insertion of new sections 13AB, 13AC and 13AD.

"13AB. (1) The Central Government shall establish a Fund to be known as the Working Journalists Welfare Fund, which shall consist of:— Establishment of a Working Journalists Welfare Fund.

(a) a contribution of rupees fifty crore by the Central Government;

(b) contributions from newspaper establishments in such manner as may be prescribed;

(c) voluntary donations from any individual or organisations; and

(d) monthly contributions from working journalists at such rates as may be determined by the Board of Trustees constituted under section 13AC.

(2) The fund shall be managed by the Board of Trustees.

Board of  
Trustees.

**13AC. (1) The Central Government shall constitute a Board of Trustees.**

**(2) The Board of Trustees shall have one Chairman, who shall be nominated by the Central Government and shall consist of as many other members as are, in the opinion of the Central Government, required to manage the fund and all such members shall be elected from representatives of organisations representing the working journalists and other newspaper employees in the country.**

Duties of  
Board of  
Trustees.

**13AD. The Board of Trustees shall:—**

(a) render adequate financial assistance to working journalists in case of infirmity or disability due to accident or old age;

(b) render adequate financial assistance to the dependants of a working journalist who dies prematurely due to an accident or otherwise; and

(c) initiate such welfare measures for working journalists as may be deemed fit."



## STATEMENT OF OBJECTS AND REASONS

Press is known as fourth estate in a democratic State. In a democracy like ours, press plays a very significant role in its proper functioning. Journalists play vital role in covering news of public importance and keeping the press function properly. In the era of information technology, journalists have to put in extra effort to collect news undeterred by hostile atmosphere and violence. Sometimes they have to perform their job notwithstanding risk to their lives. There have been cases when journalists either lost their lives or become crippled in accidents during the course of their job. In such a situation, the family members and dependants of such journalists are left in helpless conditions.

It is, therefore, necessary to amend the existing statute "The Working Journalists and Other Newspaper Employees (Conditions of Service) and Miscellaneous Provisions Act, 1955" with a view to providing for establishment of working journalists fund for welfare of working journalists in various newspaper establishments in the country. This will go a long way in instilling a sense of fearlessness in the minds of working journalists.

Hence this Bill.

NEW DELHI;  
February 4, 2005.

IQBAL AHMED SARADGI

## FINANCIAL MEMORANDUM

Clause 2 of the Bill provides for the establishment of Working Journalists Welfare Fund and for establishment of a Board of Trustees. The Bill, if enacted, will involve expenditure from the Consolidated Fund of India. It is estimated that a sum of rupees fifty crore is likely to be incurred as recurring expenditure every year.

A non-recurring expenditure of rupees ten crore is also likely to be incurred.

## BILL NO. 27 OF 2005

*A Bill to provide for insurance of crops and for matters connected therewith.*

BE it enacted by Parliament in the Fifty-sixth Year of the Republic of India as follows:—

Short title,  
extent and  
commencement.

1. (1) This Act may be called the Crop Insurance Act, 2005.
- (2) It extends to the whole of India.
- (3) It shall come into force at once.

Definitions.

2. In this Act, unless the context otherwise requires,—

(a) "crop" includes all agricultural crops such as paddy, wheat, gram, pulses, all types of fruits, coconut, all types of cotton and cotton seeds, etc. and such other agricultural commodities which may be notified, from time to time, by the Central Government, in the Official Gazette;

(b) "essential commodity" means food and clothing;

(c) "excess crop" means crop which is produced in excess of the demand and within the country where the return is very less compared to cost of production;

(d) "natural calamity" means drought, floods, cyclone, storm and heavy rains; and

(e) "prescribed" means prescribed by rules made under this Act.

**3. The Central Government shall formulate a scheme providing for insurance of crops and excess of crops throughout the country.** Insurance Scheme.

**4. The Insurance scheme shall be applicable to all kinds of crops and in all seasons and to all farmers irrespective of the size of their land holding.** Insurance Scheme to be applicable to all farmers.

**5. (1) The premium in respect of insurance shall be borne by the Central Government and the State Governments in such proportion as may be prescribed.** Premium.

(2) Each farmer shall contribute towards the premium according to the size of the land owned by him and the rate shall be such as may be prescribed.

**6. It shall be the duty of the Central Government to pay insurance amount to the farmers for the loss of crops suffered by them due to any natural calamity or excess of crops where the returns is less.** Payment of Insurance amount.

**7. (1) The insurance amount shall be paid within two months after the full assessment of the loss suffered by the farmer is made by a Committee of Experts to be constituted by the Central Government.** Insurance amount to be paid within two months.

(2) The farmers shall be fully compensated for the loss suffered by them.

**8. It shall be the duty of both Central and State Governments to provide all essential commodities to the farmers who have submitted their claims for insurance for their daily needs free of cost till they are paid the insurance amount for the loss of their crops under section 6.** Supply of essential commodities to farmers.

**9. It shall be the duty of the Central and the State Governments to procure excess crops from the farmers at the remunerative price to be fixed by the Central Government so as to save the farmers from losses.** Procurement of excess crop.

**10. The provisions of this Act shall be in addition to and not in derogation of any other law for the time being applicable to crop insurance.** Application of other laws to crop insurance.

**11. The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Act.** Power to make rules.

## STATEMENT OF OBJECTS AND REASONS

The farmers always suffer heavily due to floods, cyclone, drought, and rains. It has been a common phenomenon that the standing crops are destroyed by the natural calamities every year. In most parts of the country, drought has also affected the crops. The frequent loss of crops suffered by the farmers has rendered them helpless and has even forced them to commit suicide. Due to the loss of crops, farmers are not in a position to repay their loans to money lenders.

In the last few years, heavy rains have damaged the crops in several parts of the country. Drought was also experienced in several other States which resulted in heavy loss to farmers. Farmers have not only been victimised by natural calamities but also by Government by way of not procuring surplus production from them. It is, therefore, necessary to enact a legislation so that farmers can be compensated for loss of their crops due to natural calamities.

NEW DELHI;  
*February 4, 2005.*

IQBAL AHMED SARADGI

## FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for formulation of a Crop Insurance Scheme. Clause 5 provides that the premium in respect of crop insurance shall be borne by the Central Government and the State Governments. Clause 6 provides that it shall be duty of the Central Government to pay the farmers the insurance amount due to loss of crops. Clause 7 provides for constitution of an Expert Committee to make assessment of the loss suffered by the farmers. Clause 8 provides for supply of all essential commodities to farmers for their daily needs free of cost till they are paid the insurance amount. The Bill, therefore, if enacted, will involve expenditure from the Consolidated Fund of India. The State Governments will also incur expenditure from their respective Consolidated Funds in respect of payment of premium of crop insurance and procurement of excess crop production. It is likely to involve an annual recurring expenditure of about rupees five hundred crore from the Consolidated Fund of India.

A non-recurring expenditure of about rupees fifty crore is also likely to be involved.

## MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 11 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. As the matters will relate to detail only, the delegation of legislative power is of a normal character.

## BILL NO. 28 OF 2005

*A Bill to provide compulsory military training to all able bodied citizens of the country.*

BE it enacted by Parliament in the Fifty-sixth Year of the Republic of India as follows:—

- |   |   |
|---|---|
| 1. (1) This Act may be called the Compulsory Military Training Act, 2005.   | Short title,<br>extent and<br>commencement. |
| (2) It extends to the whole of India.   |   |
| (3) It shall come into force at once.   |   |
| 2. (1) The Central Government shall provide military training to all the able-bodied citizens including women who have attained the age of eighteen years but have not attained the age of fifty years irrespective of their religion, caste, colour and creed. | Compulsory<br>military<br>training.         |
| (2) The military training shall be for a period ranging from one year to five years and the expenses of the training shall be borne by the Central Government.  |   |
| 3. Any person who refuses to attend the military training shall be punished with imprisonment for four months or with fine amounting to rupees one thousand or with both.   | Punishment.                                 |

Utilisation of  
services.

**4. The Central Government shall utilise the services of citizens, who have undergone military training, at the time of any emergency or otherwise.**

Power to  
make rules.

**5. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.**

### STATEMENT OF OBJECTS AND REASONS

For the last several years, extremist activities have increased almost in every part of the country. The cases of rape of women have become a common factor. The cases of murder and dacoity are also increasing day-by-day. A number of people have been murdered in their houses or on the road-side and the life has become insecure. Although the police have made elaborate arrangements for the security, it is not possible for the police to go to each and every house to defend the people. Hence, self-help is necessary at the present juncture and the compulsory military training to all able bodied citizens should be provided immediately. Moreover, their services can be utilised in case of any emergency in any part of the country. Moreover, this will also help in raising a second line of defence which can be used in case of any threat to the security of the nation and also for internal security.

Hence this Bill.

NEW DELHI;  
February 4, 2005.

IQBAL AHMED SARADGI

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### FINANCIAL MEMORANDUM

Clause 2 of the Bill provides that the Central Government shall provide compulsory military training to all the able-bodied citizens for a period ranging from one year to five years. Clause 4 provides that services of persons who have undergone military training shall be utilised at the time of any emergency or otherwise. The Central Government will have to incur expenditure in respect of the provisions of the Bill. The Bill, therefore, if enacted, would involve expenditure from the Consolidated Fund of India. It is likely to involve an annual recurring expenditure of about rupees ten crore.

A non-recurring expenditure of about rupees four crore is also likely to be involved.

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### MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 5 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. The rules will relate to matters of detail only and as such the delegation of legislative powers is of a normal character.

## BILL NO. 31 OF 2005

*A Bill to abolish the child labour in the country and for matters connected therewith.*

BE it enacted by Parliament in the Fifty-sixth Year of the Republic of India as follows:—

Short title,  
extent and  
commence-  
ment.

1. (1) This Act may be called the Abolition of Child Labour Act, 2005.

(2) It extends to the whole of India.

(3) It shall come into force at once.

Definitions.

2. In this act, unless the context otherwise requires,—

(a) “appropriate Government” means in the case of a State, the Government of that State and in all other cases, the Central Government;



(b) "child" means a boy or a girl who has not attained the age of eighteen years; and

(c) "employer" means a person who engages a child in a job or in an employment and who has absolute control over the affairs of an establishment in which the child labour is engaged and includes work in a factory, trade, shop, house or engaged in any work relating to agriculture.

3. Child labour, in any form in any establishment in the country, is hereby abolished. Abolition of child labour.
4. Any person, who engages a child in any employment, shall be punished with simple imprisonment which may extend to three years and a fine which may extend to rupees one lakh. Punishment.
5. Any parent or a lawful guardian of a child, who is found to have coerced his child into employment, shall be punished with simple imprisonment which may extend to one year and with fine which may extend to rupees fifty thousand. Punishment to parents for coercion.
6. (1) Any organisation or establishment, which is found to have engaged children in a job or in an employment, shall remove the children from employment from that organisation or establishment within a period of six months from the date of coming into force of this Act. Closure of an organisation/ establishment engaging child labour.  
 (2) After the expiry of the period prescribed in sub-section (1), if the organisation or the establishment concerned has not removed children from their employment, the appropriate Government shall order closure of such organisation or establishment.
7. (1) Any child found engaged in a job or in any employment or found collecting rags and waste or found begging shall immediately be taken into custody by the police. Establishment of children's home and rehabilitation.  
 (2) Every child so picked up shall be sent to a children's home, which shall be established in every district by the appropriate Government, where the child shall be provided with facilities like education and maintenance till such time as he/she has attained the age of eighteen years.
8. The provisions of this Act or rules made thereunder shall be in addition to and not in derogation of any other law for the time being in force regulating any of the matters dealt with in this Act. Provision of Act not to be in derogation of any other law for the time being in force.
9. The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Act. Power to make rules.

## STATEMENT OF OBJECTS AND REASONS

India has the largest number of child labour in the world. The official figure is thirteen million. But the actual number may be much higher. Indian children are the source of cheap labour because they can be paid less wages or can be abused without provoking retaliation. These children work in industries manufacturing crackers, diamond polishing, glass, brassware, carpet weaving, bangle making, lock making and mica cutting to name just a few. A large number of children also work as domestic servants.

Poverty is cited as a major cause of child labour, but it is not the only determinant. Inadequate schools or even the expense of providing education leaves some of the children with practically no option but to work. The attitude of parents also contributes to child labour. Compulsory elementary education may help ameliorate this attitude. The problem of child labour cannot be eliminated in one stroke. Many countries have stopped buying products of industries where children are employed.

Only multidimensional strategies including compulsory elementary education, eradication of poverty, eradicating parental illiteracy, making child labour illegal will help in achieving this objective. Stringent legal provisions, severe punishment for violation of laws, rehabilitation of children already engaged in work have to go along with abolition of child labour in the country. Therefore, it is high time that a stringent law for abolition of child labour is enacted.

Hence this Bill.

NEW DELHI;  
February 8, 2005.

IQBAL AHMED SARADGI

## FINANCIAL MEMORANDUM

Clause 7 provides for establishment of a children's home in every district for rehabilitation of children engaged in a job or employed in an establishment. The Central Government would have to incur expenditure from the Consolidated Fund of India for establishment of children's homes in respect of Union territories. The State Governments will incur expenditure from their respective consolidated funds for children homes to be established in their respective States. The Bill, therefore, if enacted, will involve expenditure from the Consolidated Fund of India. It is likely to involve a recurring expenditure of about rupees fifty crore per annum.

A non-recurring expenditure of about rupees one crore is also likely to be involved.

## MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 9 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. As the rules will relate to matters of detail only, the delegation of legislative powers is of a normal character.

**BILL NO. 38 OF 2005**

*A Bill to provide for compulsory registration of religious conversions in the country.*

WHEREAS it is expedient to provide for registration of religious conversions in India for certain purposes;

Be it enacted by Parliament in the Fifty-sixth Year of the Republic of India as follows:—

1. (1) This Act may be called the Compulsory Registration of Religious Conversions Act, 2005.

(2) It extends to the whole of India.

Short title,  
extent and  
commencement.

(3) This section shall come into force at once and the remaining provisions of the Act shall come into force within a period of one year from the date of publication of this Act in the Official Gazette, in such areas and on such dates which may be different for different areas as the Central Government may, by notification in the Official Gazette, appoint.

## Definitions.

2. In this Act unless the context otherwise requires,—

(a) "Conversion" or "religious conversion" or "change of faith" means the voluntary act of changing, converting, adopting or altering the religion of birth or faith or belief and mode of religious practice by any person who has completed the age of 18 years, by requisite religious rites, customary ceremony, legal citation or by any other form or manner, so prevailing in the Community, caste, society and includes re-conversions;

(b) "memorandum" means a memorandum of conversion provided for in section 5;

(c) "priest" means any person who solemnises conversion either under any religious authority or social sanction or custom;

(d) "Register" means a Register of Conversions maintained under this Act;

(e) "Registrar" means a Registrar of Conversions appointed under this Act;

(f) "Registrar-General" means the authority so appointed by the Central Government for the States and Union territories under this Act.

## Appointment of Registrar-General and Registrars.

3. (1) The Central Government may appoint a Registrar-General for each of the States and Union territories for purposes of this act.

(2) The Central Government may appoint such number of persons as it thinks fit to be Registrars of Conversions for such local areas in a State or Union territory as it may specify from time to time.

## Every conversion to be registered.

4. After the date on which the provisions of this Act have been brought into force in any area as provided under sub-section (3) of section 1, every conversion in such area shall be registered in the manner provided in section 5.

## Memorandum of conversion.

5. (1) Every person proposing to change or alter the religion of his birth, or customary faith or religious practice by conversion to another religion or faith, of his own will and by his voluntary choice, shall prepare and sign a memorandum in such form as may be prescribed by the Central Government and shall deliver or send by registered post the said memorandum in triplicate to the Registrar of the area 60 days before the date of proposed conversion.

(2) The memorandum shall also be signed by the officiating priest, or head of the religious institution or the person who is authorised to perform the ceremony or rites at the time, date and place of conversion ceremony mentioned in the said memorandum.

(3) The memorandum shall be accompanied by a fee of rupees five.

## Register of conversions and action on memorandum.

6. (1) The Registrar shall maintain a register of conversions.

(2) On receipt of the memorandum the Registrar shall file the same in the Register.

(3) The duplicate copy of the memorandum shall be sent to the Registrar-General, after the expiry of the period of 60 days, as provided under sub-section (1) of section 5, with the intimation of date, time and place of actual conversion as provided in sub-section (3) of section 7.

(4) The third copy of the memorandum shall be sent within 15 days from the date the memorandum is delivered to or received by the Registrar for information to the religious head, chief priest, community organisation, social body or recognised mission of the religion of faith from which or out of which the person proposes to seek conversion.

(5) The Registrar-General shall from time to time nominate such persons, priests, organisations, institutions, missions, etc. for that area or for the State or States or Union territories to whom the information of conversion of the person referred to in sub-section (1) of section 5 shall be furnished.

7. (1) After the expiry of the period of 60 days as provided in sub-section (1) of section 5, the person presenting the memorandum shall be entitled to effect the act of conversion which shall be completed within a period of 45 days from the date of expiry of the 60 days' period.

Conversion when becomes complete.

(2) The person so converted shall deliver or send by registered post an intimation of conversion in such form as may be prescribed by Central Government, duly signed by himself, the officiating priest and three witnesses, to the Registrar.

(3) The Registrar shall, on receiving the intimation of conversion,—

(a) file the same in the register and make an entry of the conversion so effected;

(b) issue a certificate of conversion to the person presenting the memorandum; and

(c) send one copy of the memorandum with the entry of conversion to the Registrar-General as provided under sub-section (3) of section 6.

8. The Register maintained under this Act shall be open to inspection and certified copies of extracts therefrom shall be given by the Registrar to any person who applies for the same on payment of a fee of rupees two for each such copy.

Register to be open to public inspection.

9. No conversion in any area or the State or Union territory to which this Act applies shall be invalid solely by reason of the fact that it was not registered under this Act or that the memorandum or the intimation of conversion was not delivered or sent to the Registrar or that such memorandum or intimation of conversion was defective, irregular or incorrect:

Non-registration not to invalidate conversion.

Provided that such conversion shall not be accepted as proof for any service under the Central or the State Government or otherwise and shall not entitle the person so converted to any benefits, reservation, special privilege, rights, scholarships and such other benefits as may be given by the Central or the State Government to a person of that particular religion to which the person claims to be converted, unless the certified copy of the conversion is produced.

10. Any person, who willfully avoids or neglects to deliver or send the memorandum as required by section 5 and the intimation of conversion under section 7 or makes any statement in such memorandum or intimation of conversion which is false in any material particular and which he knows or has reason to believe it to be false, shall on conviction be punishable with fine which may extend to two hundred rupees.

Penalty for neglecting to comply with provisions of sections 5, 6 or 7 or for making false statement in memorandum.

11. Any Registrar, who fails to file the memorandum pursuant to section 6 or the intimation of conversion under section 7, shall on conviction be punished with rigorous imprisonment for a term which may extend to three months or with fine which may extend to five hundred rupees or with both.

Penalty for failing to file memorandum or intimation.

12. Any person secreting, destroying or dishonestly altering the register or any part thereof shall, on conviction, be punished with imprisonment for a term which may extend to two years and shall also be liable to fine.

Penalty for secreting, destroying or altering register.

13. Every Registrar shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code, 1860.

Registrar to be a public servant.

Power to  
make rules.

14. (1) The Central Government may, by notification in the Official Gazette and subject to the conditions of previous publication, make rules for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the duties and powers of the Registrar;

(b) forms of the memorandum of conversion and the intimation of conversion, the forms and manner in which registers or records required to be kept by or under this Act shall be maintained;

(c) the custody in which the registers and records are to be kept and the preservation of such registers and records; and

(d) provision to enable the Registrar to be present if, needed, at the time of actual conversion.

(3) The Central Government may, by notification in the Official Gazette, maintain a list of religious heads, chiefs, priests, missions, recognised religious authorities, societies, etc. in the State as well as community organisations, social institutions or bodies of recognised castes, sects, faiths or communities to whom a copy of memorandum of conversion is to be sent as provided under sub-section (4) of section 6.

(4) Every rule, made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall, from the date of publication of a notification in the Official Gazette of such decision, have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done or omitted to be done under that rule.

### STATEMENT OF OBJECTS AND REASONS

The Compulsory Registration of Religious Conversions Bill, 2005 has been brought forward for the purpose of registering all the religious conversions in the country. Such a record or statistics of conversions would be of a great value for many purposes, such as at the time of census, social work, research, etc. Further, the Bill serves another valuable purpose viz., it will give the person seeking conversion a sufficient time to exercise his free will and take a voluntary decision. The Bill does not propose to interfere in any way with the right of every citizen to choose his own religion. Thus, the Bill is of great social importance and, therefore, necessary in larger public interest.

In recent times, religious conversions have taken place on "mass scale" under circumstances which leave doubts about those conversions being not voluntary nor out of free will nor a genuine change of faith. Such incidents can become a major problem of law and order or communal hatred or religious conflicts. The Bill gives full right to every individual to choose his own religion and also sets out a method for registering it and make it foolproof against any undue compulsion like financial, social, political, domestic or educational, or inducement like job or any other such benefits and enticements. This Bill will thus, if enacted, serve a great social purpose and the current need of the time in the country.

NEW DELHI:

KASHIRAM RANA.

February 10, 2005

### FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for appointment of Registrar-General and Registrars in the States and the Union territories. Clause 6(1) provides for maintenance of registers by the Registrars. Appointment of these officers and their offices are likely to involve a recurring expenditure of about rupees fifteen lakh annually from the Consolidated Fund of India.

A non-recurring expenditure of about rupees ten lakh is also likely to be involved.

### MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 14 of the Bill empowers the Government to make rules for carrying out the purposes of this Bill and in particular in regard to certain matters which include the duties and powers of the Registrar, the forms of memorandum of conversion and the intimation of conversion, the forms and manner in which registers or records are required to be maintained, the custody in which the registers and records are kept, and the provision to enable the Registrar to be present at the time of actual conversion. The matters in respect of which such rules may be made are matters of procedure or administrative details. The delegation of legislative power is thus of a normal character.

## BILL No. 33 OF 2005

*A Bill to provide for imposition of penalty on the airline companies for cancellation/ delay in operations of their schedule services and for matters connected therewith.*

BE it enacted by Parliament in the Fifty-sixth Year of the Republic of India as follows:—

Short title,  
extent,  
commence-  
ment and  
application.

1. (1) This Act may be called the Airlines (Penalty for Delays) Act, 2005.

(2) It shall extend to the whole of India.

(3) It shall come into force immediately.

(4) It shall apply to all airline companies registered in India and/or operating their flights from/to India from anywhere in the world.



2. In this Act, unless the context otherwise requires, "airlines" means any airline company registered with the Directorate General of Civil Aviation (D.G.C.A) in India and includes its Chairman and other members of the Board of Directors of the company and Chief Operating Officer.

Definition.

3. No airline shall cancel any of its scheduled flights except on such grounds as mentioned in section 5.

Airline companies not to cancel their flights.

4. In case of delay of more than one hour from the scheduled time of departure of the flight or cancellation of the flight due to any other reason as mentioned in section 5, the airline company shall,—

Penalty in case of cancellation of flights.

(i) pay at least five times the price of the ticket to the valid ticket holding passenger of the flight so cancelled/delayed;

(ii) make arrangements for the boarding, lodging and such other facilities as may be prescribed for the passenger at the station of cancellation/delay of flight till such time as the passenger boards the next flight to his destination:

Provided that arrangements for boarding, lodging and such other facilities as may be prescribed shall be made only when the flight is delayed by more than four hours; and

(iii) pay at least three times the price of the ticket of the connecting flight to the valid ticket holding passenger when passenger misses the connecting flight on account of cancellation or delay in the departure of the flight.

5. The airline shall not be held responsible for payment of penalties to the passenger in case of cancellation or delay of more than one hour of a scheduled flight on account of bad weather as certified by Airports Authority of India, and/or genuine technical problems.

Airlines not to be held responsible in certain cases.

*Explanation:* For the purpose for this section, a certificate by the Authority of the airport concerned that the weather is bad and not conducive to flying or there are genuine technical problems in the aircraft which made the aircraft inoperative shall be required.

6. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

Power to make rules.

**STATEMENT OF OBJECTS AND REASONS**

In the last few years the airline traffic has gone up manifolds in the world. However, many instances have come to light wherein the passengers were put to a lot of inconvenience due to the cancellation of scheduled flight by the Airlines without due notice. The airlines cancel their flights on various grounds like bad weather, technical problems, strike by its employees and go slow adopted by the airport and the airlines officials. The passengers who have booked in these flights lose heavily as they have fixed up their engagements, meetings, etc. well in advance. They have to spend time at the airports due to cancellation of flights and have no other means of reaching their destination. The European Union is considering to impose heavy penalties on airlines who cancel their flights on any ground. This measure is likely to make the airlines punctual and more responsible and save the passengers from hardships. In our country also this type of law is very much required which imposes penalties on airlines for cancellation of flights. However, in case of bad weather or technical snags as certified by the Airports Authority, the airlines may be exempted from such penalties.

The Bill seeks to achieve the above objectives.

NEW DELHI;  
February 10, 2005.

KASHIRAM RANA

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**MEMORANDUM REGARDING DELEGATED LEGISLATION**

Clause 6 of the Bill empowers the Central Government to make rules for carrying out the provisions of the Bill. The rules will relate to matters of detail only. The delegation of legislative power is of a normal character.

## BILL NO. 17 OF 2005

*A Bill to provide for the creation of a Legislative Assembly for the Union territory of Daman and Diu and for matters connected therewith or incidental thereto.*

BE it enacted by Parliament in the Fifty-sixth Year of the Republic of India as follows:—

## PART I

## PRELIMINARY

1. (1) This Act may be called the Government of Union Territory of Daman and Diu Act, 2005. Short title and commencement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint:

Provided that different dates may be appointed for different provisions of the Act and any reference in any such provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision.

2. In this Act, unless the context otherwise requires,—

Definitions.

(a) "article" means an article of the Constitution;

(b) "assembly constituency" means a constituency provided under this act for the purpose of election to the Legislative Assembly;

(c) "Election Commission" means the Election Commission referred to in article 324;

(d) "Legislative Assembly" means the Legislative Assembly of the Union territory of Daman and Diu;

(e) "Scheduled Castes/Scheduled Tribes" in relation to the Union territory means such castes, races or tribes or parts of or groups within such castes, races or tribes as are deemed under articles 341 and 342 of the Constitution to be Scheduled Caste or Scheduled Tribe in relation to that Union territory; and

(f) "Union territory" means the Union territory of Daman and Diu.

## PART II

### LEGISLATIVE ASSEMBLY

Legislative Assembly and its composition.

3. (1) the total number of seats in the Legislative Assembly to be filled by persons chosen by direct election from territorial constituencies shall be forty.

(2) For the purposes of election to the Legislative Assembly, the Union territory shall be divided into single-member assembly constituencies in accordance with the provisions of Part III in such manner that the population of each of the constituencies shall, so far as practicable, be the same throughout the Union territory.

(3) Seats shall be reserved for the Scheduled Castes and Scheduled Tribes in the Legislative Assembly, and the number of seats so reserved shall bear, as nearly as may be, the same proportion to the total number of seats in the Assembly as the population of the Scheduled Castes or Scheduled Tribes in the Union territory bears to the total population of the Union territory.

Qualifications for membership of Legislative Assembly.

4. A person shall not be qualified to be chosen to fill a seat in the Legislative Assembly unless he,—

(a) is a citizen of India and makes and subscribes before some person authorised in that behalf by the Election Commission an oath or affirmation according to the form set out for the purpose in the Schedule;

(b) is not less than twenty-five years of age; and

(c) possess such other qualifications as may be prescribed in that behalf by or under any law made by Parliament.

Duration of Legislative Assembly.

5. The Legislative Assembly unless sooner dissolved, shall continue for five years from the date appointed for its first meeting and no longer and the expiration of the said period of five years shall operate as a dissolution of the Assembly:

Provided that the said period may be extended as while a proclamation of emergency issued under clause (1) of article 352 is in operation, by the President by order for a period not exceeding one year at a time and not extending it in any case beyond a period of six months after the proclamation has ceased to operate.

Session of Legislative Assembly, prorogation and dissolution.

6. (1) The Lieutenant Governor shall, from time to time; summon the Legislative Assembly to meet at such time and place as he thinks fit, but six months shall not intervene between its last sitting in one session and the date appointed for its first sitting in the next session.

(2) the Lieutenant Governor may, from time to time:—

(a) prorogue the Assembly;

(b) dissolve the Assembly.

7. (1) The Legislative Assembly shall, as soon as may be, choose two members of the Assembly to be respectively the Speaker and the Deputy Speaker thereof and, so often as the office of the Speaker or the Deputy Speaker becomes vacant, the Assembly shall choose another member to be the Speaker or the Deputy Speaker, as the case may be.

Speaker and Deputy Speaker of Legislative Assembly.

(2) A member holding office as Speaker or Deputy Speaker of the Legislative Assembly—

(a) shall vacate his office if he ceases to be a member of the Assembly;

(b) may at any time by writing under his hand addressed, if such member is the Speaker, to the Deputy Speaker, and if such member is the Deputy Speaker to the Speaker, resign his office; and

(c) may be removed from his office by a resolution of the Assembly passed by a majority of all the then members of the Assembly:

Provided that no resolution for the purpose of clause (c) shall be moved unless at least fourteen days' notice has been given of the intention to move the resolution:

Provided further that whenever the Assembly is dissolved, the Speaker shall not vacate his office until immediately before the first meeting of the Assembly after the dissolution.

(3) While the office of Speaker is vacant, the duties of the office shall be performed by the Deputy Speaker or if the office of Deputy Speaker is also vacant, by such member of the Assembly as may be determined by the rules of procedure of the Assembly.

(4) During the absence of the Speaker from any sitting of the Assembly, the Deputy Speaker, or if he is also absent, such person as may be determined by the rules of procedure of the Assembly, or if no such person is present, such other person as may be determined by the Assembly, shall act as Speaker.

(5) There shall be paid to the Speaker and the Deputy Speaker of the Legislative Assembly such salaries and allowances as may be respectively fixed by the Legislative Assembly by law and until provision in that behalf is so made, such salaries and allowances as the Lieutenant Governor may, with the approval of the President, by order determine.

8. (1) At any sitting of the Legislative Assembly while any resolution for the removal of the Speaker from his office is under consideration, the Speaker, or while any resolution for the removal of the Deputy Speaker from his office is under consideration, the Deputy Speaker, shall not, though he is present, preside and the provisions of sub-section (4) of section 7 shall apply in relation to every such sitting as they apply in relation to a sitting from which the Speaker or, as the case may be the Deputy Speaker is absent.

Speaker or Deputy Speaker not to preside while a resolution for his removal from office is under consideration.

(2) The Speaker shall have the right to speak in, and otherwise to take part in the proceedings of the Legislative Assembly while any resolution for his removal from office is under consideration in the Assembly and shall, notwithstanding anything in section 13, be entitled to vote only in the first instance on such resolution or on any other matter during such proceedings but not in the case of an equality of votes.

9. (1) The Lieutenant Governor may address the Legislative Assembly and for that purpose require the attendance of members.

Right of Lieutenant Governor to address and send message to Legislative Assembly.

(2) The Lieutenant Governor may send message to the Legislative Assembly whether with respect to a Bill then pending in the Assembly or otherwise and when a message is so sent, the Assembly shall with all convenient despatch consider any matter required by the message to be taken into consideration.

Special address  
by the  
Lieutenant  
Governor.

10. (1) At the commencement of the first session after each general election to the Legislative Assembly at the commencement of the first session of each year, the Lieutenant Governor shall address the Legislative Assembly and inform it of the causes of its summons.

(2) Provision shall be made by rules to be made by the Assembly regulating its procedure for the allotment of time for discussion of the matters referred to in such address.

Rights of  
Ministers as  
respects  
Legislative  
Assembly.

11. Every Minister who is not a member of the Legislative Assembly shall have the right to speak in and otherwise to take part in the proceedings of the Legislative Assembly and to speak in and otherwise to take part in the proceedings of any committee of the Legislative Assembly which he may be named a member, but shall not by virtue of this section be entitled to vote.

Oath or  
affirmation  
by member.

12. Every member of the Legislative Assembly shall, before taking his seat, make and subscribe before the Lieutenant Governor or some person appointed in that behalf by him, an oath or affirmation according to the form set out for the purpose in the Schedule.

Voting in  
Legislative  
Assembly and  
Power of  
Assembly to  
act notwith-  
standing  
vacancies and  
quorum.

13. (1) Save as otherwise provided in the Act, question at any sitting of the Legislative Assembly shall be determined by a majority of votes of the members present and voting other than the Speaker or person acting as such.

(2) The Speaker or person acting as such shall not vote in the first instance, but shall have and exercise a casting vote in the case of an equality of votes.

(3) The Legislative Assembly shall have power to act notwithstanding any vacancy in the membership thereof, and any proceedings in the Legislative Assembly shall be valid notwithstanding that it is discovered subsequently that some person who was not entitled so to do, sat or voted or otherwise took part in the proceedings.

(4) The quorum to constitute a meeting of the Assembly shall be one-third of the total number of members of the Assembly.

(5) If at any time during a meeting of the Legislative Assembly there is no quorum, it shall be the duty of the Speaker, or person acting as such, either to adjourn the Assembly or to suspend the meeting until there is a quorum.

Vacation of  
seats.

14. (1) No person shall be a member both of Parliament and of the Legislative Assembly and if a person is chosen a member both of Parliament and of such Assembly, then at the expiration of such period as is specified in or under the Representation of the People Act, 1951, and the rules made by the President under clause (2) of article 190, that person's seat in Parliament shall become vacant, unless he had previously resigned his seat in the Legislative Assembly.

43 of 1951.

(2) If a member of the Legislative Assembly—

(a) becomes subject to any disqualification mentioned in section 15 or section 16 for membership of the Assembly; or

(b) resigns his seat by writing under his hand addressed to the Speaker and his resignation is accepted by the Speaker,

his seat shall thereupon become vacant:

Provided that in the case of any resignation referred to in clause (b), if from the information received or otherwise and after making such inquiry as he thinks fit, the Speaker is satisfied that such resignation is not voluntary or genuine he shall not accept such resignation.

(3) If for a period of sixty days a member of the Legislative Assembly is without permission of the Assembly absent from all meetings thereof, the Assembly may declare his seat vacant:

Provided that in computing the said period of sixty days no account shall be taken of any period during which the Assembly is prorogued or is adjourned for more than four consecutive days.

15. (1) A person shall be disqualified for being chosen as, and for being, a member of the Legislative Assembly—

Disqualifica-  
tion for  
membership.

(a) if he holds any office of profit under the Government of India or the Government of any State or the Government of any Union territory other than an office declared by law made by Parliament or by the Legislature of any State or by the Legislative Assembly of any other Union territory not to disqualify its holder; or

(b) if he is for the time being chosen as, and for being, a member of either House of Parliament under the provisions of sub-clause (b) or sub-clause (c) of sub-clause (1) of article 102 or of any law made in pursuance of that article.

(2) For the purpose of the section, a person shall not be deemed to hold an office of profit under the Government of India or the Government of any State or the Government of any Union territory by reason only that he is a Minister either for the Union or for such State or Union territory.

(3) If any question arises as to whether a member of the Legislative Assembly has become disqualified for being such a member under the provisions of sub-section (1), the question shall be referred for the decision of the President and his decision shall be final.

(4) Before giving any decision on any such question, the President shall obtain the opinion of the Election Commission and shall act according to such opinion.

16. The provisions of the Tenth Schedule to the Constitution shall, subject to the necessary modifications (including modifications for construing references therein to the Legislative Assembly of a State, article 188, article 194 and article 212 as references, respectively, to the Legislative Assembly, section 12, section 18 and section 37 of this Act), apply to and in relation to the members of the Legislative Assembly of a State and accordingly:—

Disqualifica-  
tion on  
ground of  
defection.

(a) the said Tenth Schedule as so modified shall be deemed to form part of this Act; and

(b) a person shall be disqualified for being a member of the Legislative Assembly if he is so disqualified under the said Tenth Schedule as so modified.

17. If a person sits or votes as a member of the Legislative Assembly before he has complied with requirements of section 12 or when he knows that he is not qualified or that he is disqualified for membership thereof, he shall be liable in respect of each day on which he so sits or votes to a penalty of five hundred rupees to be recovered as a debt due to the Union.

Penalty for  
sitting and  
voting before  
making oath  
or affirmation  
or when not  
qualified or  
when disquali-  
fied.

18. (1) Subject to the provisions of this Act and to the rules and standing orders regulating the procedure of the Legislative Assembly, there shall be freedom of speech in the Legislative Assembly.

Powers,  
Privileges, etc.,  
of members.

(2) No member of the Legislative Assembly shall be liable to any proceedings in any court in respect of anything said or any vote given by him in the Legislative Assembly or any Committee thereof and no person shall be so liable in respect of the publication by or under the authority of such Assembly of any report, paper, votes or proceedings.

(3) In other respects, the powers, privileges and immunities of the Legislative Assembly and of the members and the Committees thereof shall be such as are of the time being enjoyed by the House of the People and its members and committees.

(4) The provisions of sub-sections (1), (2) and (3) shall apply in relation to persons who by virtue of this Act have the right to speak in, and otherwise to take part in the proceedings, of the Legislative Assembly or any Committee thereof as they apply, in relation to members of that Assembly.

Salaries and allowances of members.

19. Members of the Legislative Assembly shall be entitled to receive such salaries and allowances as may from time to time be determined by the Legislative Assembly by law and until provision in that behalf is so made, such salaries and allowances as the Lieutenant Governor may, with the approval of the President, by order determine.

Exemption of property of the Union from taxation.

20. The property of the Union shall, save in so far as Parliament may by law otherwise provide, be exempted from all taxes imposed by or under any law made by the Legislative Assembly or by under any other law in force in the Union territory:

Provided that nothing in this section shall, until Parliament by law otherwise provides, prevent any authority within the Union territory from levying any tax on any property of the Union to which such property was immediately before the commencement of the Constitution liable or treated as liable, so long as the tax continues to be levied in the Union territory.

Restrictions on laws passed by Legislative Assembly with respect to certain matters.

21. (1) The provisions of articles 286, 287 and 288 shall apply in relation to any law passed by the Legislative Assembly with respect to any of the matters referred to in those articles as they apply in relation to any law passed by the Legislature of a State with respect to those matters.

(2) The provisions of article 304 shall, with the necessary modifications, apply in relation to any law passed by the Legislative Assembly with respect to any of the matters referred to in that article as they apply in relation to any law passed by the Legislature of a State with respect to those matters.

Special provisions as to Financial Bills.

22. (1) A Bill or amendment shall not be introduced into, or moved in, the Legislative Assembly except on the recommendation of the Lieutenant Governor if such Bill or amendment makes provision for any of the following matters, namely:—

- (a) the imposition, abolition, remission, alteration or regulation of any tax;
- (b) the amendment of the law with respect to any financial obligations undertaken or to be undertaken by the Government of the Union territory;
- (c) the appropriation of moneys out of the Consolidated Funds of the Union territory;
- (d) the declaring of any expenditure to the expenditure charged on the Consolidated Fund of the Union territory or the increasing of the amount of any such expenditure;
- (e) the receipt of money on account of the Consolidated Fund of the Union territory or the custody of such money;

Provided that no recommendation shall be required under this sub-section for the moving of an amendment making provision for the reduction or abolition of any tax.

(2) A Bill or amendment shall not be deemed to make provision for any of the matters aforesaid by reason only that it provides for the imposition of fines or other pecuniary penalties, or for the demand or payment of fees for licence or fees for services rendered, or by reason that it provides for the imposition, abolition, remission, alteration or regulation of any tax by any local authority or body for local purposes.

(3) A Bill which, if enacted and brought into operation, would involve expenditure from the Consolidated Fund of the Union territory shall not be passed by the Legislative Assembly unless the Lieutenant Governor has recommended to that Assembly the consideration of the Bill.

Procedure as to lapsing of Bills.

23. (1) A Bill pending in the Legislative Assembly shall not lapse by reason of the prorogation of the Assembly.

(2) A Bill which is pending in the Legislative Assembly shall lapse on a dissolution of the Assembly.



24. When a Bill has been passed by the Legislative Assembly it shall be presented to the Lieutenant Governor and he shall declare either that he assents to the Bill or that he withholds assent therefrom or that he reserves the Bill for the consideration of the President:

Assent to Bills.

Provided that the Lieutenant Governor may, as soon as possible after the presentation of the Bill for his assent, return the Bill if it is not a Money Bill together with a message requesting that the Assembly will reconsider the Bill or any specified provisions thereof, and, in particular, will consider the desirability of introducing any such amendments as he may recommend in his message and, when a Bill is so returned, the Assembly will reconsider the Bill accordingly and if the Bill is passed again with or without amendment and presented to the Lieutenant Governor for assent, he shall declare either that he assents to the Bill or that he reserves the Bill for the consideration of the President:

Provided further that the Lieutenant Governor shall not assent to, but shall reserve for the consideration of the President, any Bill which,—

(a) in the opinion of the Lieutenant Governor would, if it became law, so derogate from the powers of the High Court as to endanger the position which that Court is, by the Constitution, designed to fill; or

(b) the President may, by order, direct to be reserved for his consideration; or

(c) relates to matter referred to in sub-section (5) of section 7 or section 19 or section 34 or sub-section (3) of section 43.

*Explanation.*—For the purposes of this section and section 25, a Bill shall be deemed to be a Money Bill if it contains only provisions dealing with all or any of the matters specified in sub-section (1) of section 22 or any matter incidental to any of those matters and, in either case, there is endorsed thereon the certificate of the Speaker of the Legislative Assembly signed by him that it is a Money Bill.

25. When a Bill is reserved by the Lieutenant Governor for the consideration of the President, the President shall declare either that he assents to the Bill or that he withholds assent therefrom:

Bills reserved for consideration.

Provided that where the Bill is not a Money Bill, the President may direct the Lieutenant Governor to return the Bill to the Legislative Assembly together with such a message as is mentioned in the first proviso to section 24 and, when a Bill is so returned, the Assembly shall reconsider it accordingly within a period of six months from the date of receipt of such message and, if it is again passed by the Assembly with or without amendment it shall be presented again to the President for his consideration.

26. No Act of the Legislative Assembly, and no provision in any such Act, shall be invalid by reason only that some previous sanction or recommendation required by this Act was not given, if assent to that Act was given by the Lieutenant Governor or, one being reserved by the Lieutenant Governor for the consideration of the President, by the President.

Requirements as to sanction, etc.

27. (1) The Lieutenant Governor shall in respect of every financial year cause to be laid before the Legislative Assembly, with the previous sanction of the President, a statement of the estimated receipts and expenditure of the Union territory for the year, in this part referred to as the "annual financial statement".

Annual financial statement.

(2) The estimates of expenditure embodied in the annual financial statement shall show separately—

(a) the sums required to meet expenditure described by this Act as expenditure charged upon the Consolidated Fund of the Union territory; and

(b) the sums required to meet other expenditure proposed to be made from the Consolidated Fund of the Union territory and shall distinguish expenditure on revenue account from other expenditure.

(3) Notwithstanding anything contained in any law for the time being in force, the following expenditure shall be expenditure charged on the Consolidated Fund of the Union territory:—

(a) the emoluments and allowances of the Lieutenant Governor and other expenditure relating to his office as determined by the President by general or special order;

(b) the charges payable in respect of loans advanced to the Union territory from the Consolidated Fund of India including interest, sinking fund charges and redemption charges and other expenditure connected therewith;

(c) the salaries and allowances of the Speaker and the Deputy Speaker of the Legislative Assembly;

(d) any sums required to satisfy any judgement, decree or award of any court or arbitrator or tribunal;

(e) any other expenditure declared by the Constitution or by law made by Parliament or by the Legislative Assembly to be so charged.

Procedure in  
Legislative  
Assembly  
with respect  
to estimates.

28. (1) So much of the estimates as relates to expenditure charged upon the Consolidated Fund of the Union territory shall not be submitted to the vote of the Legislative Assembly but nothing in this sub-section shall be construed as preventing the discussion in the Legislative Assembly of any of those estimates.

(2) So much of the said estimates as relates to other expenditure shall be submitted in the form of demands for grants to the Legislative Assembly, and the Legislative Assembly shall have the power to assent or to refuse to assent, to any demand, or to assent to any demand subject to a reduction of the amount specified therein.

(3) No demand for a grant shall be made except on the recommendation of the Lieutenant Governor.

Appropriation  
Bills.

29. (1) As soon as may be after the grants under section 28 have been made by the Legislative Assembly, there shall be introduced a Bill to provide for the appropriation out of the Consolidated Fund of the Union territory of all moneys required to meet—

(a) the grants so made by the Assembly; and

(b) the expenditure charged on the Consolidated Fund of the Union territory but not exceeding in any case the amount shown in the statement previously laid before the Assembly.

(2) No amendment shall be proposed to any such Bill in the Legislative Assembly which will have the effect of varying the amount or altering the destination of any grant made or of varying the amount of any expenditure charged on the Consolidated Fund of the Union territory and the decision of the person presiding as to whether an amendment is inadmissible under this sub-section shall be final.

(3) Subject to the other provisions of this Act, no money shall be withdrawn from the Consolidated Fund of the Union territory except under appropriation made by law passed in accordance with provisions of this section.

Supple-  
mentary,  
additional or  
excess grants

30. (1) The Lieutenant Governor shall,—

(a) if the amount authorised by any law made in accordance with provisions of section 29 to be expended for a particular service for the current financial year is found to be insufficient for the purposes of that year or when a need has arisen during the current financial year for supplementary or additional expenditure upon some new service not contemplated in the annual financial statement for that year, or

(b) if any money has been spent on any service during a financial year in excess of the amount granted for that service and for that year, cause to be laid before the Legislative Assembly, with the previous sanction of the President, another Statement showing the estimated amount of that expenditure or cause to be presented to the Legislative Assembly with such previous sanction a demand for such excess, as the case may be.

(2) The provisions of sections 27, 28 and 29 shall have effect in relation to any such statement and expenditure or demand and also to any law to be made authorising the appropriation of money out of the Consolidated Fund of the Union territory to meet such expenditure or the grant in respect of such demand as they have effect in relation to the annual financial statement and the expenditure mentioned therein or to a demand for a grant and the law to be made for the authorisation or appropriation of moneys out of the Consolidated Fund of the Union territory to meet such expenditure or grant.

31. (1) Notwithstanding anything in the foregoing provisions of this Part, the Legislative Assembly shall have power to make any grant in advance in respect of the estimated expenditure for a part of any financial year pending the completion of the procedure prescribed in section 28 for the voting of such grant and passing of the law in accordance with the provisions of section 29 in relation to that expenditure and the Legislative Assembly shall have power to authorise by law the withdrawal of moneys from the Consolidated Fund of the Union territory for the purposes for which the said grant is made.

Votes on  
account.

(2) The provisions of sections 28 and 29 shall have effect in relation to the making of any grant under sub-section (1) or to any law to be made under that sub-section as they have effect in relation to the making of a grant with regard to any expenditure mentioned in the annual financial statement and the law to be made for the authorisation of appropriation of moneys, out of the Consolidated Fund of the Union territory to meet such expenditure.

32. Notwithstanding anything in the foregoing provisions of this Part, the Lieutenant Governor may authorise such expenditure from the Consolidated Fund of the Union territory as he deems necessary for a period of not more than six months beginning from the date of the Constitution of the Consolidated Fund of the Union territory, pending the sanction of such expenditure by the Legislative Assembly.

Authorisation  
of expenditure  
pending its  
sanction by  
Legislative  
Assembly.

33. (1) The Legislative Assembly may, make rules regulating subject to the provisions of this Act, its procedure and the conduct of its business:

Rules of  
Procedure.

Provided that the Lieutenant Governor shall, after consultation with the Speaker of the Legislative Assembly and with the approval of the President make rules—

(a) for securing the timely completion of financial business;

(b) for regulating the procedure of, and the conduct of business in, the Legislative Assembly in relation to any financial matter or to any Bill for the appropriation of moneys out of the Consolidated Fund of the Union territory; and

(c) for prohibiting the discussion of, or the asking of questions on, any matters which affects the discharge of the functions of the Lieutenant Governor in so far as he is required by or under this Act or any law to act in his discretion.

(2) Until rules are made under sub-section (1), the rules of procedure and standing orders with respect to the Legislative Assembly of the State of Uttar Pradesh in force immediately before the commencement of this Act shall have effect in relation to the Legislative Assembly subject to such modifications and adaptations as may be made therein by the Lieutenant Governor.

34. (1) The Legislative Assembly may by law adopt any one or more of the languages in use in the Union territory or Hindi as the official language or languages to be used for all or any of the official purposes of the Union territory:

Official language  
or languages of  
the Union Terri-  
tory and language  
or languages to be  
used in Legisla-  
tive Assembly.

Provided that the President may by order direct—

(i) that the official language of the Union shall be adopted for such of the official purposes of the Union territory as may be specified in the order.

(ii) that any other language shall also be adopted throughout the Union territory or such part thereof for such of the official purposes of the Union territory as may be specified in the order if the President is satisfied that a substantial proportion of the population of the Union territory desires the use of that other language for all or any of such purposes.

(2) The business in the Legislative Assembly shall be transacted in the official language or languages of the Union territory or in Hindi or in English:

Provided that the Speaker of the Legislative Assembly or the person acting as such, as the case may be, may permit any member who cannot adequately express himself in any of the languages aforesaid, to address the Assembly in his mother-tongue.

Languages to be used for Bills, Acts, etc.

35. Notwithstanding anything contained in section 34 until Parliament by law otherwise provides, the authoritative texts—

(a) of all Bills to be introduced or amendments thereto to be moved in the Legislative Assembly;

(b) of all Acts passed by the Legislative Assembly; and

(c) of all orders, rules, regulations and bye-laws issued under any law made by the Legislative Assembly shall be in English language:

Provided that where the Legislative Assembly has prescribed any language other than the English language for use in Bills introduced in, or Acts passed by, the Legislative Assembly or in any order, rule, regulation or bye-law issued under any law made by the Legislative Assembly, a translation of the same in the English language published under the authority of the Lieutenant Governor in the official Gazette shall be deemed to be the authoritative text thereof in the English language.

Restrictions on discussion in the Legislative Assembly.

36. No discussion shall take place in the Legislative Assembly with respect to the conduct of any Judge of the Supreme Court or of a High Court in the discharge of his duties.

Courts not to inquire into proceedings of Legislative Assembly.

37. (1) The validity of any proceedings in the Legislative Assembly shall not be called in question on the ground of any alleged irregularity of procedure.

(2) No officer or member of the Legislative Assembly in whom powers are vested by or under this Act for regulating procedure or the conduct of business, or for maintaining order in the Legislative Assembly shall be subject to the jurisdiction of any court in respect of the exercise by him of those powers.

### PART III

#### DELIMITATION OF CONSTITUENCIES

Election Commission to delimit constituencies.

38. (1) The Election Commission shall, in the manner herein provided, distribute the seats assigned to the Legislative Assembly under section 3 to single-member territorial constituencies and delimit them having regard to the following provisions, namely:—

(a) all constituencies shall, as far as practicable, be delimited in such manner that the ratio between the population of each of such constituencies and the total population of the Union territory is the same; and

(b) constituencies in which seats are reserved for the Scheduled Castes or Scheduled Tribes shall, as far as possible, be located in areas where the proportion of the population to the total population is comparatively large.

(2) The Election Commission shall—

(a) publish its proposals for the delimitation of constituencies in the official Gazette and also in such other manner as the Commission may consider fit together with a notice inviting objections and suggestions in relation to proposals and specifying a date on or after which their proposals will be further considered by it;

(b) consider all objections and suggestions which may have been received by it before the date so specified;

(c) after considering all objections and suggestions which may have been received by it before the date so specified, finalise delimitation of constituencies and cause such order or orders to be published in the official Gazette; and upon such publication, the order or orders shall have the full force of law and shall not be called in question in any court.

39. The Election Commission may from time to time, by notification in the official Gazette,—

(a) correct any printing mistakes in any order made under section 38 or any error arising therein from inadvertent slip or omission; and

(b) where the boundaries or name of any territorial division mentioned in any such order are or is altered, make such amendments as appear to it to be necessary or expedient for bringing such order up to date.

40. (1) For the purpose of constituting the Legislative Assembly, a general election will be held as soon as may be after the delimitation of all the assembly constituencies under section 38.

(2) For the purposes of sub-section (1), the Lieutenant Governor shall, by one or more notifications published in the Official Gazette, call upon all the said assembly constituencies to elect members in accordance with the provisions of the Representation of the People Act, 1951 and of the rules and orders made or issued thereunder as applicable under sub-section (3).

(3) The Representation of People Act, 1950, the Representation of the People Act, 1951 the rules and orders made or issued under the said Acts and all other laws for the time being in force relating to the elections shall apply with necessary modifications (including modifications for construing references therein to a State, State Government and Governor as including references to the Union territory, Government of the Union territory and Lieutenant Governor, respectively) to, and in relation to, the general election referred to in sub-section (1).

Power of Election Commission to maintain delimitation orders up to date.

Election to the Legislative Assembly.

43 of 1951.

43 of 1950.  
43 of 1951.

#### PART IV

##### CERTAIN PROVISIONS RELATING TO LIEUTENANT GOVERNOR AND MINISTERS

41. (1) The Lieutenant Governor shall act in his discretion in a matter—

(i) which falls outside the purview of the powers conferred on the Legislative Assembly but in respect of which powers or functions are entrusted or delegated to him by the President, or

(ii) in which he is required by or under any law to act in his discretion or to exercise any judicial or quasi-judicial functions.

(2) if any question arises as to whether any matter is or is not a matter as respects which the Lieutenant Governor is by or under any law required to act in his discretion, the decision of the Lieutenant Governor thereon shall be final.

(3) If any question arises as to whether any matter is or is not a matter as respects which the Lieutenant Governor is required by any law to exercise any judicial or quasi-judicial functions, the decision of the Lieutenant Governor thereon shall be final.

42. The question whether any, and if so what, advice was tendered by Ministers to the Lieutenant Governor shall not be inquired into in any court.

43. (1) Before a Minister enters upon his office, the Lieutenant Governor shall administer to him the oaths of office and of secrecy according to the forms set out for the purpose in the Schedule.

(2) A Minister who, for any period of six months, is not a member of the Legislative Assembly, at the expiration of that period, shall cease to be a Minister.

Matters in which Lieutenant Governor to act in his discretion.

Advice by Ministers.

Other provisions as to Ministers.

(3) The salaries and allowances of Ministers shall be such as the Legislative Assembly may from time to time by law determine and until the Legislative Assembly so determines, shall be determined by the Lieutenant Governor with the approval of the President.

Conduct of  
business.

44. (1) The President shall make rules—

(a) for the allocation of business to the Ministers in so far as it is business with respect to which the Lieutenant Governor is required to act on the aid and advice of his Council of Ministers; and

(b) for the more convenient transaction of business the Ministers, including the procedure to be adopted in the case of a difference of opinion between the Lieutenant Governor and the Council of Ministers or a Minister.

(2) Save as otherwise provided in this Act, all executive actions of the Lieutenant Governor whether taken on the advice of his Ministers or otherwise shall be expressed to be taken in the name of the Lieutenant Governor.

(3) Orders and other instruments made and executed in the name of the Lieutenant Governor shall be authenticated in such manner as may be specified in rules to be made by the Lieutenant Governor and the validity of an order or instrument which is so authenticated shall not be called in question on the ground that it is not an order or instrument made or executed by the Lieutenant Governor.

Duties of  
Chief Minister  
as respects the  
furnishing of  
information,  
etc. to the  
Lieutenant  
Governor.

45. It shall be the duty of the Chief Minister—

(a) to communicate to the Lieutenant Governor all decisions of Council of Ministers relating to the administration of the affairs of the Union territory and proposals for legislation;

(b) to furnish such information relating to the administration of the affairs of the Union territory and proposals for legislation as Lieutenant Governor may call for; and

(c) if the Lieutenant Governor so requires, to submit for the consideration of the Council of Ministers any matter on which a decision has been taken by a Minister but which has not been considered by the Council.

## PART V

### MISCELLANEOUS AND TRANSITIONAL PROVISIONS

Consolidated  
Fund of the  
Union  
territory.

46. (1) As from such date as the Central Government may, by notification in the official Gazette, appoint in this behalf, all revenues received in the Union territory by the Government of India or the Lieutenant Governor in relation to any matter with respect to which the Legislative Assembly has power to make laws, and all grants made and all loans advanced to the Union territory from the Consolidated Fund of India and all moneys received by the Union territory in repayment of loans shall form one Consolidated Fund to be entitled "the Consolidated Fund of the Union territory of Daman and Diu"—(referred to in this Act as the Consolidated Fund of the Union territory).

(2) No moneys out of the Consolidated Fund of the Union territory shall be appropriated except in accordance with and for the purposes and in the manner provided in the Act.

(3) The custody of the Consolidated Fund of the Union territory, the payment of moneys into such fund, the withdrawal of money therefrom and all other matters connected with or ancillary to those matters shall be regulated by rules made by the Lieutenant Governor with the approval of the President.

47. (1) There shall be established a Contingency Fund in the nature of an imprest to be entitled "the Contingency Fund of the Union territory of Daman and Diu" into which shall be paid from and out of the Consolidated Fund of the Union territory such sums as may, from time to time be determined by law made by the Legislative Assembly and the said Fund shall be held by the Lieutenant Governor to enable advances to be made by him out of such Fund.

Contingency Fund of the Union territory.

(2) No advances shall be made out of the Contingency Fund referred to in sub-section (1) except for the purposes of meeting unforeseen expenditure pending authorisation of such expenditure by the Legislative Assembly under appropriation made by law.

(3) The Lieutenant Governor may make rules regulating all matters connected with or ancillary to the custody of, the payment of moneys into, and the withdrawal of moneys from the aforesaid Contingency Fund.

48. The reports of the Comptroller and Auditor General of India relating to the accounts of the Union territory for any period subsequent to the date referred in sub-section (1) of section 46 shall be submitted to the Lieutenant Governor who shall cause them to be laid before the Legislative Assembly.

Audit Reports.

49. Notwithstanding anything in this Act, the Lieutenant Governor and his Council of Ministers shall be under the general control of, and comply with such particular directions, if any, as may from time to time be given by, the President.

Relation of Lieutenant Governor and his Ministers to President.

50. (1) Every order made by the President under article 239AB shall expire at the end of one year from the date of issue of the order and the provisions of clauses (2) and (3) of article 356 shall, so far may be, apply to such order as they apply to a proclamation issued under clause (1) of article 356.

Period of order made under article 239AB and approval thereof by Parliament.

(2) Notwithstanding anything contained in sub-section (1), the President may extend the duration of the aforesaid order for a further period not exceeding two years from the date of expiry of the order under sub-section (1) subject to the condition that every extension of the said order for any period beyond the expiration of one year shall be approved by resolutions of both Houses of Parliament.

51. Where the Legislative Assembly is dissolved or its functioning as such Assembly remains suspended on account of an order made by the President under article 239AB, it shall be competent for the President to authorise when the House of the People is not in session expenditure from the Consolidated Fund of the Union territory pending the sanction of such expenditure by Parliament.

Authorisation of expenditure by President.

52. For the removal of doubts it is hereby declared that—

Contracts and suits.

(a) all contracts in connection with the administration of the Union territory are contracts made in the exercise of the executive power of the Union; and

(b) all suits and proceedings in connection with the administration of the Union territory shall be instituted by or against the Government of India.

53. (1) If any difficulty arises in relation to the transaction from the provisions of any law repealed by the Act or in giving effect to the provisions of this Act and in particular in relation to the constitution of the Legislative Assembly, the President may by order do anything not inconsistent with the provisions of the Constitution or of this act which appear to him to be necessary or expedient for the purpose of removing the difficulty:

Power of President to remove difficulties.

Provided that no order under sub-section (1) shall be made after the expiry of three years from the date of constitution of the first Legislative Assembly.

(2) Every order made under sub-section (1) shall be laid before each House of Parliament.

Laying of  
rules before  
Legislative  
Assembly.  
Amendments  
to the  
Constitution.

54. Every rule made by the Lieutenant Governor under this Act shall be laid, as soon as it made, before the Legislative Assembly.

55. On and from the appointed day—

(a) in article 239A, in clause (1), for the words “Union territory of Pondicherry”, the words “Union territories of Pondicherry or Daman and Diu” shall be substituted;

(b) after article 239 AA, the following article shall be inserted, namely:—

“239AAA. (1) As from the date of Commencement of the Government of Union territory of Daman and Diu Act, 2005 the administrator of the Union territory of Daman and Diu appointed under article 239 shall be designated as the Lieutenant Governor.

(2) The provisions of articles 239AA and 239AB shall, so far as may be, apply *mutatis mutandis* in relation to the Union territory of Daman and Diu, Lieutenant Governor and the Legislative Assembly, as they apply in relation to the National Capital Territory of Delhi and its Legislature respectively.”;

(b) in article 240, in clause (1), for the existing proviso, the following provisos shall be substituted, namely:—

“Provided that when any body is created under article 239A to function as a Legislature for the Union territory of Pondicherry or Union territory of Daman and Diu, as the case may be, the President shall not make any regulation for the peace, progress and good government of that Union territory with effect from the date appointed for the first meeting of the Legislature:

Provided further that whenever the body functioning as a Legislature for the Union territory of Pondicherry or Union territory of Daman and Diu as the case may be, is dissolved or the functioning of that body as such legislature remains suspended on account of any action taken under any such law as is referred to in clause (1) of article 239A or 239AB, as the case may be, the President may, during the period of such dissolution or suspension, make regulations for the peace, progress and good government of that Union Territory.”

(c) In the Fourth Schedule to the Constitution, in the Table,

(a) entries 29 and 30 shall be re-numbered as entries 30 and 31, respectively and before the entry 30 as so renumbered, the following entry shall be inserted, namely:—

“29. Daman and Diu..... 1”;

(b) for the figures, “233”, the figures “234” shall be substituted.

56. In section 27A of the Representation of People Act 1950, after sub-section (4), the following sub-section shall be inserted, namely:— 43 of 1950.

“(5) The electoral college for the Union territory of Daman and Diu shall consist of the elected members of the Legislative Assembly constituted for that territory under the Government of Union territory of Daman and Diu Act, 2005.”.

#### THE SCHEDULE

(See sections 4, 12 and 43)

#### FORMS OF OATH OR AFFIRMATIONS

##### I

Form of oath or affirmation to made by a candidate for election to the Legislative Assembly:—

“I, AB, having been nominated as a candidate to fill a seat in the Legislative Assembly, do swear in the name of God/solemnly affirm that I bear true faith and



allegiance to the Constitution of India as by law established and that I will uphold the sovereignty and integrity of India.

II

Form of oath or affirmation to be made by a member of the Legislative Assembly:—

"I, AB, having been elected a member of the Legislative Assembly, do swear in the name of God/solemnly affirm that I will bear true faith and allegiance to the Constitution of India as by law established, and that I will faithfully discharge the duty upon which I am about to enter."

III

Form of oath of office of a member of the Council of Ministers:—

"I, AB, do swear in the name of God/solemnly affirm that I will bear true faith and allegiance to the Constitution of India as by law established, that I will uphold the sovereignty and integrity of India, that I will faithfully and conscientiously discharge my duties as a Minister, and that I will do right to all manner of people in accordance with the Constitution and the law without fear or favour, affection or ill-will."

IV

Form of oath of secrecy for a member of Council of Ministers:—

"I, AB, do swear in the name of God/solemnly affirm that I will not directly or indirectly communicate or reveal to any person or persons any matter which shall be brought under my consideration or shall become known to me as a Minister except as may be required for the due discharge of any duties as such Minister."

## STATEMENT OF OBJECTS AND REASONS

Even after 57 years of independence, the Union territory of Daman and Diu has not been provided with a democratic set-up in the form of a Legislative Assembly for the governance of the affairs of the Union territory Administration. All powers are vested in the Lieutenant Governor and the bureaucracy continues to reign supreme. In the absence of Legislative Assembly with devolution of powers, the people of the Islands are not able to have a sense of belonging and involvement in the developmental activities of the Islands and do not have a say in the utilisation of the funds provided by the Central Government in proper perspective.

The type of administration provided to the Union territory is not at all befitting to a democratic set-up and devolution of powers. The population of the Union territory has crossed four lakhs mark and the literacy percentage is well over the national average and is steadily heading towards achieving cent percent literacy as per norms prescribed by the Government of India.

However, despite all these favourable points, the people of the Union territory have not got administrative set-up of their own choice mainly due to unforesighted views of the Central Government. They deserve a political set-up on the same line as Delhi and Pondicherry.

There have been series of demands from the people of the Union territory for providing a Legislative Assembly on the line of the set-up in Delhi and Pondicherry. The people of the Island territory are unanimous in this regard. It is high time that a Legislative Assembly is provided to set the tone and direction for the governance of the Union territory Administration on democratic norms.

The Bill seeks to achieve the aforesaid objectives.

NEW DELHI;  
December 16, 2004.

DAHYABHAI V. PATEL

## FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for setting up of a Legislative Assembly for the Union territory of Daman & Diu. Clauses 7(5), 19 and 43(3) relate to payment of salaries and allowances to the Speaker, the Deputy Speaker, Members of the Legislative Assembly and the Ministers. The expenditure on such salaries and allowances and other expenditure of incidental nature such as on the staff in the Legislative Assembly and Council of Ministers will be met from the Consolidated Fund of the Union territory of Daman and Diu proposed to be set up under clause 46.

Clause 38 provides for the delimitation of thirty single member territorial constituencies for the proposed Assembly of the Union territory of Daman and Diu. Clause 55 provides that Union territory of Daman and Diu will be represented by one member in the Council of States. For this purpose, a non-recurring expenditure of about rupees fifteen lakhs and a recurring expenditure of the same amount per annum is likely to be incurred. This expenditure will be met from the Consolidated Fund of India.

The Bill does not involve any other expenditure whether of a recurring or non-recurring nature.

## MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 33 of the Bill empowers the Legislative Assembly of the Union territory of Daman and Diu to make rules, subject to the provisions of this Bill, for regulating its procedure and conduct of its business. It also provides that the Lieutenant Governor shall, after consultation with the Speaker of the Legislative Assembly and with the approval of the President, make rules for securing the completion of the financial business, regulating the procedure and conduct of business in the Legislative Assembly in relation to any financial matter or to any Bill for appropriation of moneys out of the Consolidated Fund of the Union territory of Daman and Diu and for prohibiting the discussion of or asking any question which would affect the discharge of the functions of the Lieutenant Governor in so far as he is required to act in his discretion.

Clause 44 empowers the President to make rules regarding allocation of business to Ministers and transactions of such business. It further empowers the Lieutenant Governor to make rules providing the manner of authenticating the orders issued in his name.

Clauses 46(3) and 47(3) provide that the Lieutenant Governor may make rules regarding the custody, etc. of the Consolidated Fund and the Contingency Fund of the Union territory of Daman and Diu.

G. C. MALHOTRA,  
*Secretary-General.*